



## Final Regulation Agency Background Document

<b>Agency name</b>	Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (WWWOSSP)
<b>Virginia Administrative Code (VAC) citation</b>	18VAC160-20
<b>Regulation title</b>	Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations
<b>Action title</b>	Implement 2007 Legislation
<b>Date this document prepared</b>	March 31, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The proposed amendments establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators as mandated by § 54.1-2301 C of the *Code of Virginia* (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2301>). The amendments were developed in consultation with the Board of Health to adopt regulations for the licensure of onsite soil evaluators as well as installers and operators of alternative onsite sewage systems. The amendments include requirements for minimum education and training, relevant work experience, demonstrated knowledge and skill, fees to cover program costs, and other criteria that the Board deems necessary, as mandated by § 54.1-2301 D of the *Code of Virginia* (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2301>).

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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- (1) Final action was taken on March 23, 2009, when the Board adopted the final regulations (with amendments) at its board meeting.
  - (2) Board for Waterworks and Wastewater Works Operators
  - (3) Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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(1) § 54.1-2301.C of the *Code of Virginia* (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2301>) states that the Board shall establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators. Further, § 54.1-2301.D of the *Code of Virginia* (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2301>) states that the Board, in consultation with the Board of Health, shall adopt regulations for the licensure of (i) onsite soil evaluators; (ii) installers of alternative onsite sewage systems, as defined in § 32.1-163; and (iii) operators of alternative onsite sewage systems, as defined in § 32.1-163. Such regulations shall include requirements for (a) minimum education and training, including approved training courses; (b) relevant work experience; (c) demonstrated knowledge and skill; (d) application fees to cover the costs of the program, renewal fees, and schedules; ... and (f) other criteria the Board deems necessary.

(2) The promulgating entity of these regulations is the Board for Waterworks and Wastewater Works Operators.

The regulations are required to be in effect on July 1, 2009.

The imperative form of the verb “shall” is used, making the Board’s authority to regulate mandatory rather than discretionary.

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The Virginia General Assembly, as evidenced by passing relevant legislation during the 2007 session, considered the regulation of onsite soil evaluators, sewage system installers, and sewage system operators as essential to protecting the health, safety, and welfare of the citizens of the Commonwealth. The Board has adopted the proposed amendments to its existing regulations to implement the regulation of Onsite Soil Evaluators, Onsite Sewage System Installers, and Onsite Sewage System Operators as mandated by the provisions of HB 3134 and SB 1270 passed by the 2007 Session of the Virginia General Assembly.

The goal is to transfer the existing Department of Health regulatory program for onsite soil evaluators to the Department of Professional and Occupational Regulation and to establish a new regulatory program for onsite sewage system installers and operators with a minimum adverse impact on commerce. Additionally, the goal includes assuring that competent professionals are available to the public in need of onsite sewage system products and services. The environment benefits by having onsite sewage systems planned, installed, and operated by competent individuals who can best guide the consuming public in managing wastewater so as to avoid adverse environmental impact. The public will be readily able to identify and access the services of competent sewage system installers and operators through a regulatory program that does not currently exist.

**Substance**

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.*

Section 18VAC160-20-10 is amended to add definitions necessary to implement the new provisions and to amend existing definitions to differentiate between the existing regulants and the new regulants.

Section 18VAC160-20-74 is amended to differentiate between the existing and the new regulants and to clarify which license is required to lawfully perform specific functions.

Section 18VAC160-20-76 is amended to conform to the Department’s Model Regulations and to add language providing for the new professions.

Section 18VAC160-20-80 is amended to include the new professions.

Section 18VAC160-20-82 is a new section that creates an interim license for Virginia Department of Health (VDH) employees who are not certified as authorized onsite soil evaluators (AOSE) but who perform those duties as employees of the Department. These individuals are provided a means to continue lawful employment while preparing to meet the new regulations' licensing requirements.

Section 18VAC160-20-84 is a new section that creates an interim license for individuals who have been practicing as onsite sewage system installers and operators prior to the effective date of the regulations. Standards have been proposed that should allow those who are currently practicing to continue lawful practice after the effective date of the amendments under an interim license.

Section 18VAC160-20-90 is amended to make clear that its provisions apply only to waterworks and wastewater works operators.

Section 18VAC160-20-94 is a new section that allows VDH employees with a current AOSE certification to apply for an alternative onsite soil evaluator license by recognizing that their VDH AOSE certification satisfies the examination and experience requirements set by the Board for initial licensure. This section allows a limited time grandfather period for these individuals to apply for the license without having to repeat what they have already done due to the mere transference of regulatory authority between VDH and DPOR.

Section 18VAC160-20-96 is a new section that creates qualifications for the licensure of onsite soil evaluators.

Section 18VAC160-20-97 is a new section that creates qualifications for the licensure of onsite sewage system installers.

Section 18VAC160-20-98 is a new section that creates qualifications for licensure for onsite sewage system operators.

Section 18VAC160-20-102 is amended to clarify that all fees are nonrefundable and deletes the dishonored check fee language. DPOR has statutory authority to recover dishonored check costs, and the regulation provision is no longer necessary. The application and renewal fees for the new professions will be the same as the existing professions.

Section 18VAC160-20-104 is amended to make its provisions applicable to those holding interim licenses as well as those holding regular licenses and provisional licenses.

Section 18VAC160-20-106 is amended to enable the licenses for onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators to expire 24 months from the last day of the month wherein issued. The amendment also specifies that interim licenses are valid for 48 months from the last day of the month wherein issued, specifies that interim licenses are non-renewable, and it makes the act of submitting a license renewal application and fee to DPOR serve as a certification by the licensee that he is in compliance with the Board's regulations and has completed the required Continuing Professional Education (CPE) for the specific license being renewed.

Section 18VAC160-20-109 is amended to establish a continuing professional education (CPE) requirement for onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators. The CPE requirement applies to all interim and regular licensees for both conventional and alternative systems.

Section 18VAC160-20-140 is amended to include the new professions, including those holding an interim license, under the Standards of Practice provisions currently applicable to waterworks and wastewater works operators. A new subsection is added to enable the Board to discipline any licensee or interim licensee who undertakes to perform or performs a professional assignment for which he is not qualified by education or training.

Section 18VAC160-20-145 is a new section which outlines provisions pertaining to conflicts of interest. The section mandates and prohibits specific behaviors relating to potential financial relationships among the different professions which could ultimately affect the recipient of these licensed services.

Section 18VAC160-20-150 is amended to allow the new professions to qualify for experience substitutions in the same manner as Class I, Class II, and Class III waterworks and wastewater works operators. It also deletes language pertaining to course completion self-assessments which have been determined by the Board to be inadequate for measuring student learning.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
  - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
  - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*

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1) The primary advantage to the public is the availability of minimally-competent onsite sewage system professionals. More homes are being constructed on land that will not "perk," making it critical to both the homeowner and to the environment that the more technologically-advanced sewage treatment systems be available through licensees competent to properly plan, install, and operate onsite sewage systems. There may be some disadvantage through higher costs for sewage goods and services; however, this

impact was evaluated by the Department of Planning and Budget as a part of the legislative process during the 2007 Session. Staff and Committee members who developed this proposal did so with a strong concern to minimizing adverse impact while implementing the mandates of the 2007 legislation.

2) The primary advantage to the agency and the Commonwealth is the successful implementation of a legislative mandate. No disadvantage has been identified.

3) Substantial consideration has been given to the inevitable impact of a new legislative mandate on those directly affected: the authorized onsite soil evaluators currently regulated by the Virginia Department of Health, the onsite sewage system installers and operators not currently regulated by any agency of the Commonwealth, as well as their clients. An interim license provision will allow those currently practicing to continue to practice lawfully for a period of time which will be sufficient to meet the new licensing requirements. An orderly transition to the new regulatory program has been created.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	"Alternative onsite sewage system installer" definition added	* The definition has been amended to remove the language concerning treatment works and point source discharge.	The types of systems which can be installed are not as limited but instead broadly covered by the terms "conventional and onsite sewage systems"
10	"Alternative onsite sewage system operator" definition added	* Language which was very specific to the operator's duties was replaced with the terms "operate and maintain...systems"	The new language more broadly defines the duties of an alternative operator.
10	"Alternative onsite soil evaluator" definition added	* The evaluator's duties are separated from the installer's duties and they are allowed to evaluate and design for both conventional and alternative systems. Sites are also required to be certified in accordance with applicable state regulations and local ordinances.	Original language confused the duties of alternative evaluators and installers. The alternative evaluator is now able to evaluate and design for both conventional and alternative systems instead of just alternative systems. Evaluators are required to certify in accordance with applicable state regulations and local ordinances to ensure quality work.
10	"Authorized onsite soil evaluator" or "AOSE" definition added	The date which specified the validity of an AOSE certification was changed to "June 30, 2009".	The original language erroneously indicated AOSE certifications to be valid on the effective date

			of this chapter. However, on the effective date of this chapter, all AOSE certifications become invalid, so the date was changed to June 30, 2009, which is the day before the effective date of this chapter.
10	"Board" definition (was not changed in the proposed stage)	"Onsite Sewage System Professionals or any successor agency" was added to the definition	This language was added to correctly refer to the Board's new name effective on July 1, 2009, as well as indicate the application of these regulations to any successor agency.
10	"Conventional onsite sewage system operator" definition added	* Language which was very specific to the operator's duties was replaced with the terms "operate and maintain a conventional onsite sewage system".	The new language more broadly defines the duties of a conventional operator. It also makes the concept of operator duties consistent between alternative and conventional operators.
10	"Conventional onsite soil evaluator" definition added	* Language was added to allow this licensee to evaluate soils for either alternative or conventional systems but only design conventional systems. Also, certification of sites is required to comply with applicable state regulations and local ordinances.	Soil evaluation is the same whether designing for alternative or conventional systems. To ensure adequate quality of the certification, it is explicitly required to be done in accordance with applicable state regulations and local ordinances.
10	"Direct Supervision" definition added	The wording was rearranged.	The original wording was confusing. It was adjusted to make the definition easier to understand.
10	"Maintenance" definition added	"or maintain" was added as a defined word in this same heading	This was added to address the regulations' use of the term as a noun and a verb while maintaining the term's applicability to the regulatory requirements
10	"Operate" definition added	The definition was amended to include onsite sewage system effluent.	The term was amended so as to specify the definition of "operate" as it applies to waterworks, wastewater works, and onsite sewage systems.
10	"Operator" definition added	The conjunction and punctuation were adjusted.	This was done to accommodate adding "or

			to operate onsite sewage systems" to the definition.
10	"Operator-in-training" definition added	"or onsite sewage system" was added to the definition.	This was done to specify that an operator-in-training is also classified as one who operates these types of systems.
10	"Owner" definition added	* "propose to own" and "or onsite sewage systems" were added to the definition.	The language was added to encompass any individual who may act to manage or maintain not only water & wastewater works but onsite sewage systems as well.
10	"Responsible Charge" definition added	"or onsite sewage system" language added to the definition	The language was added to cover the term's applicability to onsite sewage systems as well.
10	"Sewage handler" definition added	"or other treatment or holding device" added to the definition as well as the reference to the Sewage Handling and Disposal Regulations	The language was added to broaden the term's applicability to sewage handlers as well as specify the authority that regulates these individuals.
10	"Treatment works" definition added	Reference to the Sewage Handling and Disposal Regulations is removed.	The reference is unnecessary.
74	74.C added to specify that a license is necessary for onsite sewage system operators, installers, and soil evaluators	"individual" replaces "person"  * Language added to specify that alternative licensees can perform both conventional and alternative duties  Language specifying that no licensee shall hold both a conventional and alternative license was stricken	"person" can be interpreted in ways which include collective entities as well as single individual. The language was changed because evaluator, installer, and operator licenses are only issued to individuals.  Alternative license tasks are more advanced than conventional and therefore allow the alternative licensee to perform both within the license category  The language is unnecessary by explanation within the same paragraph that the issuance of an alternative license voids the previously issued conventional license.

74	74.D Added to specify the need for a wastewater works license for onsite sewage systems exceeding 10,000 gallons/day design flow	"individual" replaces "person"	"person" can be interpreted in ways which include collective entities as well as single individual. The language was changed because operator licenses are only issued to individuals.
76	76.G added to identify an applicant's requirement to have no disciplinary actions against him	The terms "holding a license" and "shall be in good standing" were rearranged.	Language was changed to allow the paragraph to read more smoothly, words were rearranged but meaning remained consistent
76	76.H added to identify an applicant's requirement to be free of any criminal convictions	"subsection" replaces "subdivision"	"H" is a subsection, not a subdivision.
76	76.K was not added during the proposed stage.	* The new subsection for VDH employees experience requirements was added.	76.K was added to the application procedures section to address the experience verification requirements for any VDH employee applying for a license.
76	76.L added to compel those that pass the exam to meet license requirements within this chapter	Section was originally listed as "K", has been relisted as "L"	This was done to keep alphabetical sequence within the section after the addition of a paragraph before it.
82	82.A was added to address licensure requirements of those VDH employees with a valid AOSE certification on the day this chapter becomes effective.	* 82.A language is changed to exclude VDH AOSE certified individuals and address those VDH employees who are not AOSE certified but who perform soil evaluation and system design as a part of their employment with VDH	The language was added to include a licensure option for non-AOSE certified VDH employees so that they can continue to legally work for VDH as before. Language addressing licensure for VDH AOSE certified individuals is added in section 94.
82	82.B was added to specify that a VDH interim soil evaluator licensee could act as a conventional and alternative evaluator	* Language was stricken which allowed the interim license to act as an alternative evaluator. Now, the interim license is only good as a conventional evaluator interim license.	The Board determined that VDH employees already performing soil evaluation and system design are doing so for conventional systems. Therefore, it is not necessary to have the interim license include alternative systems as well.
82	82.C was added to address the expiration date of interim licenses	* The language was changed from the interim expiring after 36 months to 48 months. The language also	In response to public comment, the Board agreed to extend the

		species that the interim license will also expire when the VDH employee is no longer performing onsite soil evaluation duties for VDH, whichever comes first.	interim licensure period. Since the purpose of the interim license is to allow employees to continue working for VDH, its expiration is also contingent on current relevant employment with VDH.
82	82.D was added to address requirements for VDH AOSE certified individuals	* The language which specifically referred to VDH AOSE's was stricken.	The language was stricken so as to make the subsection only apply to VDH employees who are not AOSE certified. The requirements for AOSE certified individuals are addressed in section 94.
82	82.E was not added during the proposed stage	* 82.E was added to place a six-month deadline for VDH employees to apply for their interim licenses to continue to perform their work duties.	Since the regulation of soil evaluators is mandated by Virginia law, there must be a deadline to for these employees to apply for their new license and comply with the law.
84	84.A was added to address the Board's issuance of an interim license to those working on onsite sewage systems.	The terms "installer license or an interim onsite sewage system operator license" were added to the section.	The terms were added to specify installers and operators and to exclude evaluators since their interim licensure is detailed elsewhere in the document.
84	84.B was added to specify the expiration date of the interim license	* The terms "installer license and interim onsite sewage system operator license" were added. The expiration period was changed from 24 to 48 months.	The terms were added to specify installers and operators and to exclude evaluators since their interim licensure is detailed elsewhere in the document. The Board also extended the expiration period of the interim license so as to be consistent with the expiration period of the evaluator interim license. All interim licenses expire 48 months from the last day of the month when the license was issued.
84	84.C was added to specify how interim licensees are to maintain licensure when applying for a regular license	The terms "installer license or interim onsite sewage system operator license" were added.	The terms were added to specify installers and operators and to exclude evaluators since their interim licensure is detailed elsewhere in the

			document.
84	84.E was added to outline requirements for interim onsite sewage system installers	* The term "documented" was added to the experience requirement and the language requiring experience with a firm holding a Sewage Handling and Disposal Permit (SHDP) issued by VDH was removed. Language was added which required experience with a sewage disposal systems contractor to satisfy the experience requirement.	The Board is requiring the experience to be documented for verification during application. The Board, at the recommendation of VDH, recognized that the entry requirements for an interim installer license are more relevant to those individuals who have experience installing systems under a SDS contractor instead of those working under a firm holding a SHDP.
84	84.F was added to outline requirements for interim onsite sewage system operators	* The term "documented" was added to the experience requirement and the terms "as a conventional onsite sewage system operator" and "as an alternative onsite sewage system operator" were removed.	The Board is requiring the experience to be documented for verification during application. Also, onsite sewage system operators were not regulated prior to this program. Therefore, the language was adjusted to allow the experience of those individuals who provided operation and maintenance services on the relevant systems.
90	90.B.2 was not changed during the proposed stage	The term "direct" was added before "supervision".	The change was made so as to make the Board's regulations consistent when referencing supervision. All supervision in the regulations is defined as "direct supervision".
90	90.C.3 was added to allow alternative onsite sewage system operator experience to fulfill requirements for a Class IV wastewater works operator license.	Hyphens were added to "operator-in-training", the language referring to "a" and "b" of subdivision 3 was changed.	The punctuation was added to correctly separate the words in "operator-in-training" and "a" and "b" were specified as subparts of subdivision 3 so that it is apparent to the applicant that those provisions only apply to subdivision 3.
90	90.C was not new during the proposed stage.	90.C was relabeled as "90.D". Also, in 90.C.2.c.(3), the reference to section 160 of this chapter was changed to "18VAC160-20-150". In 90.C.3.b, reference to subsection	This was done to make the lettering consistent within the section. The section reference change was made to correctly

		"B" was changed to subsection "C".	refer to what is presently section 150 within the regulations. The change in from subsection B to C was made so that the paragraph applied to the appropriate subsection after it had been relabeled.
94	Section 94 was not added during the proposed stage.	* Section 94 addresses licensure requirements for VDH AOSE certified individuals which were originally described in section 82.	Section 94 was added because section 82 was changed to address interim conventional evaluator licenses for VDH employees who weren't otherwise AOSE certified by the VDH. Because of this section, VDH AOSE certified individuals are not limited to an interim license but instead can apply for and receive a regular alternative evaluator license as though they had already passed the Board's exam and met the Board's experience requirements. This section essentially grandfather's VDH AOSE's (provided that their applications are received within six months of the effective date of these regulations). The Board did this so as to not require these individuals to duplicate what they have already done with VDH to receive their AOSE certification.
96	96.B was not added during the proposed stage	* Interim onsite soil evaluators applying for a regular evaluator license must show proof of compliance with the Continued Professional Education (CPE) requirement.	96.B was added to mandate this for soil evaluators as required by the Board.
96	96.C was added to establish the requirements for those applying for conventional and alternative onsite soil evaluator licenses.	* 96.C.1 removed language which limited a conventional evaluator to conventional systems only as well as deleted language about the examination requirement.	96.C.1 was changed so that conventional evaluators are not limited soil evaluation for just conventional systems but can evaluate soil for both conventional and

			<p>alternative systems (due to the definition of "conventional onsite soil evaluator"). The language concerning the examination requirement is already listed in section 76.</p>
<p>96</p>	<p>96.C.1.a-d listed the different requirements which could be fulfilled to qualify for a conventional onsite soil evaluator license. The requirements included experience and education elements. The combination of years of experience and education depended on the level of education.</p>	<p>* 96.C.1.a was changed to mandate that professional soil scientists who apply also have one year of conventional onsite sewage system design experience.</p> <p>* 96.C.1.b-d were changed to also include degrees with majors in geology, agronomy, earth science, or environmental health.</p> <p>* The experience requirements, which mandated that the experience be under the direct supervision of a specific individual, were also amended to allow experience to qualify for those employees of VDH who performed the duties required by "b" thru "d" of 96.C.1 as long as they have the corresponding degree and the work was performed before July 1, 2009.</p> <p>* Additionally, AOSE's are able to certify experience for work done prior to July 1, 2009, and interim evaluator licensees can also certify the work of an applicant.</p>	<p>Soil scientists only evaluate soils for the certification, but an evaluator is licensed to evaluate soils as well as design systems. Therefore, soil scientists must be able to demonstrate design experience to qualify for an evaluator license.</p> <p>The Board determined these degrees to be relevant to licensure.</p> <p>The Board determined that these VDH employees perform this type of work as part of their regular job duties and would not need to demonstrate proof of direct supervision from another individual. The work will only count before July 1, 2009, because as of that date, the license is required.</p> <p>The Board determined that these individuals are just as qualified to supervise experience as conventional and alternative evaluators. Additionally, it will take time for experience to be accumulated under convention and alternative licensees as this is a new program. AOSE's and interim licensees will be the only individuals available for some time to certify</p>

		<p>* In addition to having experience evaluating site and soil conditions, applicants must also have the experience designing systems.</p> <p>* Another option for qualification is listed for those with 4 years of experience and completion of the VDH onsite sewage system training program.</p> <p>Finally, all subdivisions were broken down by individual experience/education combination requirement and the lists of those whose supervision is required for experience were also broken down separately.</p>	<p>experience.</p> <p>Evaluators can design systems as part of their license; therefore, the applicant must demonstrate design experience.</p> <p>VDH identified that these individuals will also satisfy the Board's licensing requirements and the Board agrees.</p> <p>This was down for clarity for the applicant and makes the entry requirements much easier to understand.</p>
96	<p>96.C.2 listed the different requirements which could be fulfilled to qualify for an alternative onsite soil evaluator license. The requirements included holding a valid interim license and passing an exam or meeting specific experience requirements and passing an exam.</p>	<p>* In 96.C.2, language was stricken which limited alternative evaluators to only alternative systems.</p>	<p>Alternative evaluators can evaluate and design for both conventional and alternative systems as specified in the definitions in section 10.</p>
96	<p>96.C.2.a-c listed the different experience requirements for applicants based on the type of experience, the total years of experience, and when the experience was obtained.</p>	<p>* 96.C.2.a was amended to add the terms "soils" and "alternative" as applicable to alternative systems. Also, the experience requirement was supplemented to allow the direct supervision of an AOSE (certified by VDH before July 1, 2009) or a currently licensed interim onsite soil evaluator.</p>	<p>The requirements specified soils and alternative systems as they are directly applicable to what is required of an alternative onsite soil evaluator applicant's experience. Also, VDH AOSE's and currently licensed interim onsite soil evaluators were determined by the Board to be just as qualified to supervise experience as alternative evaluator licensees. Additionally, it will take time for experience to be accumulated alternative evaluator licensees' supervision as this is a new program. AOSE's</p>

		<p>* 96.C.2.b was added to allow experience of two years or more obtained as either an employee of VDH or a local government</p> <p>* 96.C.2.c was changed from subdivision b to c. It specifies that AOSE certification expiration is irrelevant to this experience requirement, and the language about system permits was amended to read ""systems approved by the VDH through the issuance of a permit or a certification".</p> <p>* 96.C.2.d was changed from the original subdivision c. It specifies that AOSE certification expiration is irrelevant to this experience requirement. It allows experience as an interim licensee, an employee of VDH (with soil evaluation and septic system design experience prior to July 1, 2009), or any combination of the two previously mentioned or a conventional onsite soil evaluator licensee.</p>	<p>and interim evaluator licensees will be the only individuals available for some time to certify this experience.</p> <p>The Board determined that these individuals who perform this type of work as part of their VDH or local government employment are just as qualified for the alternative evaluator license.</p> <p>The Board determined that as long as experience was obtained as a VDH AOSE, the expiration date of the certification is irrelevant. The permit language was changed to allow for the various types of approval VDH can issue for alternative systems which would qualify the applicant's experience in this category.</p> <p>The Board determined that as long as experience was obtained as a VDH AOSE, the expiration date of the certification is irrelevant. The Board also determined that interim licensees can qualify for the experience for this license. The VDH employee who did this type of work before July 1, 2009, would also qualify and any combination of this experience as any of the aforementioned individuals that totals four years will qualify an applicant for the alternative onsite soil evaluator license.</p>
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		<p>* 96.D was added to specify education training and substitution requirements for conventional and alternative evaluator licensees.</p>	<p>The Board determined that education and training in this category can substitute for the applicant's experience requirement just as is currently allowed for waterworks and wastewater works operators.</p>
<p>97</p>	<p>Section 97 listed the different requirements which could be met to qualify for an onsite sewage system installer license.</p>	<p>* All applicants with a valid interim onsite sewage system installer license who are applying for a regular installer license must show proof of compliance with the Continued Professional Education (CPE) requirement.</p> <p>* 97.C.1.a added language to specify that experience must be full-time, experience must be from installing alternative or conventional onsite sewage systems, the supervision must be direct, and it must come from a properly licensed contractor.</p> <p>* 97.C.1.b was created out of subdivision "a" to specify that the experience can also be satisfied as experiencing from being a properly licensed sewage disposal systems (SDS) contractor.</p> <p>* 97.C.1.c was renamed from subdivision "b" and now includes certification of experience from licensed interim, conventional, or alternative onsite soil evaluators and licensed conventional or alternative onsite sewage system installers.</p> <p>* 97.C.2.a was changed to specify work after June 30, 2009 and language which specified the need of experience with "systems containing absorption field designs other than a gravity subsurface</p>	<p>97.B was added to mandate this for onsite sewage system installers as required by the Board.</p> <p>The Board needed to ensure that the experience was full-time, directly supervised, relevant specifically to the work of an installer, and done properly under a licensed contractor in order to ensure minimum competence.</p> <p>This subdivision was created so as to separate the requirement of those that worked for and were directly supervised by an SDS contractor from those that actually are or were licensed SDS contractors.</p> <p>The Board determined that these individuals could also verify the experience required for licensure. The subdivision was reorganized to make it easier to understand.</p> <p>The date was changed to specify June 30, 2009 because "after the effective date of this chapter" is not as specific. The language concerning the designs was removed because the Board</p>

		<p>drainfield" is removed. Certification by a licensed individual was changed to specify that statements and permits must be certified by either a licensed alternative onsite soil evaluator, a licensed conventional or alternative sewage system installer, or a Virginia licensed professional engineer.</p> <p>* 97.C.2.b was changed to specify work performed before June 30, 2009. Language was removed which referred to six systems "which must include absorption field designs other than a gravity subsurface drainfield", and "licensed individual" was specified to be an authorized onsite soil evaluator or a Virginia licensed professional engineer.</p> <p>* 97.C.2.c is a new section since the proposed stage that allows applicants to qualify for a license if they can prove two years of experience installing sewage systems as a licensed SDS contractor. The experience must be certified by three interim or alternative evaluator licensees, a Virginia licensed professional</p>	<p>decided that it would exclude too many potential applicants from meeting the qualifications for licensure who would otherwise be competent to perform these installations. The language specifying who could certify experience was added so as to ensure that competent individuals would be certifying experience instead of just a "licensed individual."</p> <p>The date was changed to specify June 30, 2009 because "before the effective date of this chapter is not as specific. The language concerning the system absorption fields was removed because the Board decided that it would exclude too many potential applicants from meeting the qualifications for licensure who would otherwise be competent to perform these installations. The language specifying who could certify experience was added so as to ensure that competent individuals would be certifying experience instead of just a "licensed individual."</p> <p>The Board recognized that applicants who met these criteria would be minimally competent to qualify for an alternative installer license. The language specifying who could certify experience was added so as to ensure that competent individuals would be certifying experience.</p>
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		<p>engineer, or any combination of those individuals.</p> <p>* 97.C.2.d is a new section since the proposed stage that allows applicants to qualify for a license if they can prove two years of experience installing sewage systems under a licensed SDS contractor. The experience must be verified by three interim or alternative evaluator licensees, a Virginia licensed professional engineer, or any combination of those individuals.</p> <p>* 97.C.2.e is a new section that allows applicants to qualify for the alternative installer license if they have two years of full-time experience as a licensed or interim licensed conventional installer and can provide certification by any three interim or alternative evaluator licensees, Virginia licensed professional engineers, or any combination of the above.</p> <p>The paragraph at the end of subsection has language changed to specify the "applicant" and sewage systems installed prior to June 30, 2009.</p> <p>* Subsection D was added to allow education and training substitution to meet the experience requirements for onsite sewage system installer licensure.</p>	<p>The Board recognized that applicants who met these criteria would be minimally competent to qualify for an alternative installer license. The language specifying who could certify experience was added so as to ensure that competent individuals would be certifying experience.</p> <p>The Board recognized that applicants who met these criteria would be minimally competent to qualify for an alternative installer license. The language specifying who could certify experience was added so as to ensure that competent individuals would be certifying experience.</p> <p>The language was changed from "individual" to "applicant" to be more specific. "the effective date of this chapter" was changed to "June 30, 2009" to be more specific.</p> <p>The Board determined that education and training in this category can substitute for the applicant's experience requirement just as is currently allowed for waterworks and wastewater works operators.</p>
<p>98</p>	<p>Section 98 was added during the proposed stage to specify the requirements for licensure of onsite sewage system operators.</p>	<p>* 98.B was added which mandates that all applicants for an onsite sewage system operator license who currently hold a valid interim operator license, must show proof of having met the CPE requirement for interim operator licenses.</p> <p>* 98.C.1 was revised to add the word "system" to "operator" in the</p>	<p>The Board is requiring this to ensure that interim licensees maintain their continuing education as required by Board regulations.</p> <p>The Board determined that whether or not an</p>

		<p>heading line. It has also completely stricken the language for requirements specific to applicants with and without high school diplomas.</p> <p>* 98.C.2 was revised to allow applicants possessing an interim operator license to apply for the alternative operator license.</p> <p>* 98.C.2.a is revised to allow experience gained under the direct supervision an interim alternative onsite sewage system operator licensee.</p> <p>* 98.C.2.b is revised to allow experience gained under the direct supervision an interim alternative onsite sewage system operator licensee.</p> <p>* 98.C.2.c is revised to allow experience gained under the direct supervision an interim alternative onsite sewage system operator licensee.</p> <p>* 98.D is added to allow education and training substitution to meet the experience requirements for onsite sewage system operator license applicants.</p>	<p>applicant has a high school or equivalent education is not necessary for licensure as a conventional onsite sewage system operator.</p> <p>The Board determined that these individuals will also qualify for the alternative operator license.</p> <p>The Board determined that experience attained under these individuals will qualify an applicant for licensure.</p> <p>The Board determined that experience attained under these individuals will qualify an applicant for licensure.</p> <p>The Board determined that experience attained under these individuals will qualify an applicant for licensure.</p> <p>The Board is allowing applicants to meet experience requirements through the successful completion of education or training as is currently allowed for waterworks and wastewater works operator licensees.</p>
<p>106</p>	<p>Section 106 was amended to establish the expiration of evaluator, installer, and operator licensees.</p>	<p>* 106.A is amended to specify that all interim licenses will expire 48 months from the last day of the month wherein issued.</p>	<p>The Board determined that all interim licenses will have sufficient time to meet the qualification requirements for any other onsite sewage system licenses.</p>
<p>109</p>	<p>Section 109 was amended to include continuing professional education (CPE) requirements for all licensees including the newly regulated evaluators, installers, and operators.</p>	<p>* 109.A is amended to include interim licensees.</p> <p>* 109.A.7 is added to mandate CPE for all interim licensees.</p>	<p>Interim licensees are mandated to complete CPE and need to be included in this section.</p> <p>The Board determined that interim licensees</p>

		<p>Language at the end of section A is amended to remove "and wastewater works" from the CPE renewal requirements.</p> <p>Subsection C is amended to include a reference to 18VAC160-20-150.</p>	<p>must satisfy CPE requirements just as all other licensees must do to ensure continued competence in the category of licensure.</p> <p>Wastewater works operators are not currently mandated to complete CPE for continued licensure.</p> <p>The original reference incorrectly included section 160 which does not exist in the current regulations.</p>
140	<p>This section was amended to include interim licensees.</p>	<p>Subdivision 2 is amended to change the use of the word "subsection" to "subdivision".</p> <p>* Subdivision 4 is amended to include violation of the provisions of any other relevant Virginia or federal regulation.</p>	<p>The use of "subsection" incorrectly refers to a subdivision.</p> <p>The Board determined that this will ensure that it has the proper disciplinary authority over its regulants.</p>
145	<p>This section was not added during the proposed stage.</p>	<p>* Section 145 requires that all licensees disclose any financial interests which may affect their performance as a licensee. It also prohibits regulants from accepting compensation improperly, soliciting suppliers' products or services, or accepting gratuities.</p>	<p>The Board determined that this language was required to ensure that the ultimate outcome of a licensee's performance on any particular job would not be affected by external influences which could detrimentally affect the customer.</p>
150	<p>Section 150 was amended to include the new onsite sewage system professions.</p>	<p>* 150.B.5 was amended to remove "self-assessment" as a course completion requirement.</p> <p>150.C.1.i is amended to specify that a course must be relevant to the category of licensure.</p>	<p>The Board determined that this method does not sufficiently measure a student's performance in a given course.</p> <p>The amendment ensures that a licensee only can utilize courses to satisfy the CPE requirement which are specific to his license.</p>

**Public comment**

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Response
<p>Karl Rudolph, AOSE</p>	<p>The definition of “alternative onsite soil evaluator” should be revised to include language concerning installation.</p> <p>The definition of both “alternative onsite soil evaluator” and “conventional onsite soil evaluator” should be amended to include the design of onsite sewage systems.</p> <p>Suggests referencing the Virginia Department of Health (VDH) Sewage Handling and Disposal Regulations by the Virginia Administrative Code citation assigned to the new regulations currently being developed by the VDH.</p> <p>18VAC160-20-74 C – Asks for clarification of the provision preventing an individual from holding both a conventional and an alternative license simultaneously.</p> <p>Asks whether an interim onsite soil evaluator licensee will be authorized to design alternative systems during the three years the license is valid.</p> <p>States the interim license does not appear to be qualifying experience to become an alternative onsite soil evaluator and states that allowing the interim license to be qualifying experience for licensure.</p> <p>In a later comment on 18VAC160-20-74 C, states the provision appears to require licensure for health department employees who perform soil evaluation (and design onsite systems) and would no longer allow them to perform soil evaluation and system design work in health districts where these services are performed for the public without obtaining a conventional onsite soil evaluator license. Expressed concern that licensed VDH employees may be pressured into signing off on the work of unlicensed employees.</p> <p>Recommends a three year minimum license exemption for state government employees currently engaged in soil evaluation and system design to expire at</p>	<p>Installation falls under the definition of “installer”</p> <p>The Board will make that amendment.</p> <p>The Board can amend its regulations via fast track procedure to conform to new VDH regulations</p> <p>Regulation language will be amended to make clear that an alternative licensee may perform all of the tasks of a conventional licensee.</p> <p>Interim onsite soil evaluators will be authorized to act as a conventional onsite soil evaluator for the purpose of performing their duties as an employee of VDH.</p> <p>Regulation will be amended to make clear that interim licensure experience is qualifying to become an alternative evaluator</p> <p>The statute requires a license for everyone performing onsite sewage system tasks. There is no exception for VDH staff.</p> <p>The Board will amend the language to require experience under a licensed contractor with an SDS specialty.</p> <p>Amendment will be made.</p> <p>The Board is amending the language to allow certain VDH employees to obtain an interim license valid only while they continue to be employed with VDH.</p>

	<p>about the same time as the interim licenses.</p> <p>18VAC160-20-84 E – Comments that he is not familiar with the “Sewage Handling and Disposal Permit” mentioned in subparts 1 and 2 and suggests the appropriate term might be “Sewage Handling Permit.”</p> <p>18VAC160-20-96 – Suggest that geology be added as a post secondary course that may be substituted for experience to qualify for a license.</p> <p>Expresses concern that many Virginia Department of Health (VDH) employees will not qualify for the interim or conventional onsite soil evaluator license and adversely impact of VDH employee’s ability to perform their official duties. Suggests an exemption for VDH employees for a limited time.</p> <p>18VAC160-20-96 B 2 b – Questions whether the intention is to require only 12 of the required 36 soil evaluations and system designs to have been approved by VDH to qualify for a license or does it intend that all 36 must be approved by VDH.</p> <p>Questions the significance of requiring the systems to be approved by VDH as VDH conducts a field review of 10% of the systems they approve. Suggests requiring VDH to field review all soil evaluations and system designs before they can qualify an applicant for the examination or, in the alternative, a survey of malfunctioning systems designed by authorized onsite soil evaluators may be more meaningful (and very controversial)</p> <p>Questions the significant differences between a conventional and an alternative system when the system is not designed by a professional engineer and when the practice of engineering is not involved what differentiates an alternative system from a conventional system. States the real difference between a conventional system and a non-PE alternative system is the inspection and operation, which has nothing to do with the site and soil evaluation or the design. Recommends</p>	<p>The language requires only the 12 alternative systems be designs approved by VDH.</p> <p>The requirement is for VDH approval not a VDH field review. The Board has no authority to require VDH to conduct field reviews.</p> <p>The difference between a conventional and alternative system is established in the definitions. Language will be amended to make clear that a conventional evaluator will be able to evaluate soils the same as an alternative evaluator. The difference will be that only the alternative evaluator can design an alternative system.</p>
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	<p>deletion of the proposed standards in subparts a, b, and c and, instead, require an applicant to pass an examination and have two years experience as a conventional onsite soil evaluator.</p>	
<p>Jack Watts, VDH and AOSE</p>	<p>18VAC160-20-82 B – Asks whether the language authorizes an interim onsite soil evaluator licensee to act as a licensed conventional onsite soil evaluator and as a licensed alternative onsite soil evaluator as the work “licensed” does not appear in the language. Recommends adding the word “licensed” before “conventional” and “alternative” to clarify if that is the intent of the provision. States it would also clarify that experience under an interim licensed supervisor would be qualifying experience under 18VAC160-20-96 for a conventional or alternative license.</p> <p>18VAC160-20-84 E 1 – States that applicants for an interim conventional onsite sewage system installer license with six months experience with a firm holding a VDH permit may result in license holders with inadequate skills as the term “full-time experience” is very broad. Some individuals may only have experience operating a backhoe, or laying out trenches, or shoveling gravel. The person with shoveling gravel experience may become licensed and start their own business. Expresses concern that complaints from the public concerning inadequate work may result in disciplinary action.</p> <p>Also asks what a Sewage Handling and Disposal Permit is.</p> <p>18VAC160-20-96 B 1 – Recommends adding another option to qualify as an onsite soil evaluator: Two years full time experience and completion of the VDH onsite sewage system training program. VDH has been a trainer for onsite soil evaluators for years.</p> <p>18VAC160-20-96 B 1 a – Suggests that certified professional soil scientists (CPSS) applying for a conventional onsite soil</p>	<p>The language providing for interim onsite soil evaluator licensure has been amended to apply only to certain VDH employees. Under this amendment an interim onsite soil evaluator licensee may evaluate soils for conventional and alternative onsite sewage systems but may design only conventional onsite sewage systems. Those holding a valid VDH AOSE certification on June 30, 2009 will be able to qualify for an alternative onsite soil evaluator license provided their application is received within six months after the regulation effective date.</p> <p>The Board is amending the language to require relevant experience under a licensed contractor holding a SDS specialty.</p> <p>The Board has deleted that language in favor of relevant experience under a licensed contractor with an SDS specialty.</p> <p>The Board has amended the language to add the option of 4-years full time experience in addition to having completed the VDH onsite sewage system training program.</p> <p>The Board is amending the language to require one year of full-time onsite soil evaluation and system design experience for those holding a CPSS certificate.</p> <p>The Board has amended the language to include geology and earth science. (The Board does not consider geography and oceanography to be relevant degrees.)</p> <p>The Board has amended language to make</p>

	<p>evaluator license be required to have one year experience under the direct supervision of a licensed conventional onsite soil evaluator or a licensed alternative onsite soil evaluator. The proposed provision that the CPSS applicant have one year of evaluating soils experience is not documented without the supervision of a licensee.</p> <p>18VAC160-20-96 B 1 b and c – States allowing one to qualify with a bachelor’s or associate’s degree in environmental science lacks clarity as geology, geography, earth science and oceanography may be included. Recommends clarifying the degree requirement.</p> <p>18VAC160-20-96 B 1 b, c, and d – Suggests allowing experience supervised by an interim onsite soil evaluator to qualify for conventional onsite soil evaluator license in the same manner as experience supervised by licensed conventional or alternative onsite soil evaluators. AOSEs employed by VDH may become interim onsite soil evaluators when the proposed regulations take effect. VDH employees that are not AOSEs must have experience under a licensed conventional or alternative onsite soil evaluator to qualify for a conventional onsite soil evaluator license, very difficult when VDH will have no conventional or alternative onsite soil evaluators after the regulation’s effective date.</p> <p>18VAC160-20-96 B 2 c – Suggests allowing full-time experience as a licensed interim onsite soil evaluator to qualify the same as experience as a licensed conventional onsite soil evaluator.</p>	<p>clear that experience under an interim evaluator is the same as experience under a conventional or alternative evaluator. In addition, the Board has amended the language to allow certain VDH personnel to obtain an interim onsite soil evaluator license that will be valid only for their work as an employee of VDH.</p> <p>The Board has amended language to make clear that experience under an interim evaluator is the same as experience under a conventional or alternative evaluator.</p>
<p>Dennis Childress VAAOSE; Anonymous</p>	<p>18VAC160-20-74 - States that an individual that obtains an alternative onsite soil evaluator license should also be authorized to perform conventional onsite soil evaluations.</p> <p>18VAC160-20-76 H – Comments that an evaluator or installer that is in good standing when they apply should not be prevented from obtaining a license as the result of a disciplinary action or</p>	<p>The regulation language has been amended to make clear that an alternative licensee may perform all of the tasks of a conventional licensee.</p> <p>The Board must assure the suitability of every individual to whom it issues a license. A review of past disciplinary action and criminal convictions is necessary to make that judgment.</p>

	<p>misdemeanor conviction that occurred years in the past and that board action should not be needed for approval.</p> <p>18VAC160-20-82 – Comments that the 36 month effective period for interim onsite soil evaluator licenses be extended to 48 months for the benefit of those who struggle to pass examinations even though they are competent evaluators. Comments that the interim onsite sewage installer license effective period be extended from 24 to 48 months for the same reason.</p> <p>Provides comments on the Agency Background Document.</p> <p>Recommends the requirement be waived for the public EHS to ensure all qualified soil evaluators/designers are included in the new program.</p> <p>States that the interim license text will be a problem if expiration dates occur on June 30 and the effective date of the DPOR chapter is July 1 – no one will have a “current” license.</p>	<p>The Board has amended the language to make all interim licenses valid for 48 months.</p> <p>The Agency Background Document is not a part of the proposed regulations.</p> <p>The Board amended the language to allow certain VDH employees to qualify for an interim soil evaluator license valid only for their work as an employee of VDH.</p> <p>The Board will amend the language to reflect June 30, 2009, rather than July 1, 2009.</p>
<p>Alexis E. Jones, CPSS (on behalf of the soil science profession and VAPSS)</p> <p>Alexis E. Jones, M.S., CPSS, Certified Professional Soil Scientist, No. 216, Virginia Association of Professional Soil Scientists – Board Member, 228 Park Street, Jarratt, VA 23867 Dirt_rocks@yahoo.com</p>	<p>Comments begin with background information she believes was ignored or excluded during the creation of the proposed amendments. Virginia has had an “existing Board of Professional Soil Scientists” in DPOR since 1987 that protects the public health, safety and welfare through the implementation of regulatory program that establishes certification, examination and experience, and standards of practice and conduct for professional soil scientists. Professional soil scientists are available to evaluate soils and site suitability for “onsite septic systems,” which is crucial to the safe operation of “onsite septic systems.” The expansion in 2008 of DPOR’s Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (WWWOSSP) to include onsite sewage system professionals failed to include the Board of Professional Soil Scientists, the Virginia Association of Professional Soil Scientists, and the</p>	<p>The development of the onsite soil evaluator regulations does not duplicate the work of the Board for Professional Soil Scientists and Wetland Professionals. Onsite soil evaluators evaluate soil and design appropriate onsite sewage systems for that site. Soil scientists are not authorized by their certification to design onsite sewage systems. The entry standards do recognize soil scientists in that they are allowed to apply for a license after showing onsite sewage system design experience.</p>

	<p>Virginia Association of Authorized Onsite Soil Evaluators in the process of writing the regulations. For this reason, the creation of the onsite soil evaluator license by the WWOSSP board is a duplication of the existing Board of Professional Soil Science certification and includes an examination that is a duplication of the certified professional soil science certification program. The creation of the onsite soil evaluator license did not give consideration to the existing soil scientist professionals with a degree in soil science or many years of experience in soil evaluation partially or directly related to permitting onsite septic systems.</p> <p>Proposes that the WWOSSP board proposed regulations continue onsite sewage system installers and operators license requirements but <b>exclude</b> licensure of onsite soil evaluators and place onsite soil evaluators under the jurisdiction of the existing Board of Professional Scientists converting the soil scientist regulatory program from one of certification to licensure.</p> <p>Proposes that the WWOSSP board create an onsite system designer licensing program for the design of the mechanical and construction components of onsite sewage systems <b>but exclude</b> soil evaluation and site characterizations, which shall be conducted by licensed professional soil scientists under the existing Board for Professional Soil Science.</p> <p>Proposes that all current authorized onsite soil evaluators certified by the Virginia Department of Health (VDH) and all current certified professional soil scientists be grandfathered as licensed professional soil scientists. This licensure is not to obstruct the practice of engineering.</p> <p>18VAC160-20-82 – Comments that the proposed language should be amended to replace the proposed interim onsite soil evaluator license with a grandfathered onsite system designer license for those with a valid VDH authorized onsite soil evaluator certificate.</p>	<p>The 2007 legislation mandates the regulation of AOSE's by the WWOSSP Board.</p> <p>The 2007 legislation mandates the regulation of OSE's whose responsibilities include both system design as well as soil evaluation necessary for that design.</p> <p>The authority to issue soil science certifications rests solely with the Board for Professional Soil Scientists and Wetland Professionals.</p> <p>The Board has no authority to create an onsite sewage system designer license.</p> <p>The Board feels that approval of 12 of 36 system designs is sufficient to establish eligibility to take the exam. Those who failed to develop adequate knowledge are unlikely to pass the exam.</p> <p>The requirement of 4 years of experience in designing conventional systems is meant to establish eligibility to sit for the examination. Those who failed to develop adequate knowledge are unlikely to pass the exam.</p> <p>The Board's contract with an examination vendor predates the 2007 legislation and in no way indicates that the Board will not amend its current regulations in response to public comment.</p> <p>All Board meetings were noticed in accordance with the Virginia Administrative Process Act and were open to the public. The Board is charged with licensing individuals who will be involved with onsite sewage systems which are regulated by VDH. Therefore, many of the standards of practice and conduct must be established by VDH regulations. Regulators failing to comply with VDH regulations during their practice are subject to disciplinary action against their license by the WWOSSP</p>
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	<p>18VAC160-20-96 B 2 b – Comments that the proposed amendments require VDH approval of only 12 of the 36 completed system designs completed required to qualify for licensure. Questions who is to determine whether the other 24 system designs meet the required standards.</p> <p>18VAC160-20-96 B 2 c – Comments that allowing one to qualify for an alternative onsite soil evaluation license with four years of full-time experience as a conventional onsite soil evaluator indicates that four years of conventional experience somehow makes one competent to design alternative onsite sewage systems.</p> <p>Comments that the fact that DPOR has contracted with a vendor to prepare the examinations for onsite sewage system professionals indicates that the proposed regulation provisions will not be amended in response to public comment and are “set in stone.”</p> <p>Comments go on at length to emphasize the positions summarized above and question the Board’s regulation development procedure. States that the regulations are incomplete as written by not setting the standards of practice and conduct for professionals in the field. States that there is not equal representation from VAPSS, VAOSE, and the Board for Professional Soil Scientists and Wetland Professionals.</p>	<p>Board.</p>
<p>Jeff T. Walker, CPSS/AOSE Blue Ridge Site and Soil, LLC, 778 Dobbins Farm Road, Floyd, VA 24091 540.745.3920 <a href="mailto:walker@swva.net">walker@swva.net</a></p>	<p>Comments that certified professional soil science regulatory program already exists and only lacks a mechanism for licensing onsite design. An important step has already been taken as those with soil evaluation competence are easy to distinguish (certified professional soil scientists) leaving the regulation of those qualified to design systems to be addressed. The fitting of authorized onsite soil evaluators into a framework for waterworks and wastewater works operators is challenging in that operators must work as a part of a team to assure safe environmental discharge and are not known for making independent decisions nor are they similar in any apparent way other than training in sewage handling and</p>	<p>The 2007 and 2008 legislation mandates the regulation of OSE’s whose responsibilities include both system design as well as soil evaluation necessary for that design.</p> <p>The Board feels that its examination and experience requirements for licensure sufficiently address this issue.</p>

	<p>processing, though most AOSEs are not.</p> <p>Questions that the number of advance designs completed by an individual are indicative of his ability to evaluate and describe soil morphology and states that it may be difficult for the layperson to understand that the capacity of the soil to accept water at unnatural rates is based on a number of factors and is best left to those competent to make such determinations.</p> <p>Questions breaking the existing authorized onsite soil evaluator field into two ranks. Comments that the proposed two ranks is as absurd as creating one class for systems installed below 24 inches and another for systems installed above 24 inches. If one cannot do both, one should not do either. States he is equally adept at measuring small offsets as large and that a vendor will be unable to create an examination to differentiate between those that understand the delineation and interpretation or a fragipan and those who do not. Suggests creating a class for systems greater than 1,000 gallons per day and another for less or some method of defining risk such as parcels less than 1acre/500 gallons versus all others. States there is no more risk in placing secondary effluent in the soil than in placing septic tank effluent (STE) in the soil.</p> <p>Comments that many authorized onsite soil evaluators and most environmental health specialists have little formal training in designing dispersal systems for secondary effluent but that a strong case can be made that practicing authorized onsite soil evaluators have both experience and training, and for their physiographic regions a working knowledge of the use of advanced onsite treatment. Comments that we have become accustomed to accepting black box systems that take STE and yield secondary effluent, and the prescriptive regulations have enabled us to place these waters in the soil matrix and questions why these conditions would change after July 2009. Suggests that there should be a provision that practicing authorized onsite</p>	<p>The 2007 and 2008 legislation compel the Board to create an alternative onsite soil evaluator license and a conventional onsite soil evaluator license.</p> <p>The Board has amended its regulations to allow licensure of VDH AOSE's as alternative onsite soil evaluators to recognize that they have already met the current standard established by the VDH. Amendments are also being made to allow certain EHS employees to qualify for an interim license.</p> <p>The 2007 and 2008 legislation mandated that the WWOSSP Board create a program to regulate individuals who design, install, and operate onsite sewage systems.</p> <p>All Board meetings were noticed in accordance with the Virginia Administrative Process Act and were open to the public.</p> <p>The authority to license OSE's is not granted to the Board for Professional Soil Scientists and Wetland Professionals through the current <i>Code of Virginia</i>. The current code charges the WWOSSP Board with this responsibility.</p> <p>Soil scientists are not required to demonstrate onsite sewage system design competence to</p>
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	<p>soil evaluators be permitted to sit for the “advanced” examination with minimum vetting and opposes the undercurrent in the regulation that seems to prevent his colleagues working as environmental health specialists from satisfying the requirements for licensure. States the issue of working in the private versus the public sector should not be the subject of this legislation and that VDH may have difficulty retaining EHS employees in some regions, and that issue should be dealt with contractually through employment criteria, not by legislation that seeks to avoid the flight of trained personnel.</p> <p>Provided further comment concerning the regulation of professions and expressed disappointment that the proposed regulations did not build upon the work completed by the existing soil science board that was established over 20 years ago. Also, commented on the composition of the WWOOSP Board committee that drafted the proposed amendments and questioned the composition of the committee citing the absence of individuals representing the Virginia Association of Professional Soil Scientists or the Virginia Board for Professional Soil Scientists and Wetland Professionals.</p> <p>The proposed regulations do not appear to conform to the enabling Code. The most practical correction would be a change in definition and a reference to the existing CPSS Board – preferably the CPSS/LPSS will be the entry route to licensure following the expirations of the interim OSE route.</p> <p>1. Licensed Soil Scientists will continue to evaluate soils, regardless of depth to restriction etc. There is a shed at DPOR regulating PSS, that Board should be integrated into this proposal.</p> <p>2. There shall be two classes of Designer:</p> <p>a. Conventional Designers, as defined gravity, or pumped with gravity distribution of STE through trenches or with a PE’s seal by pressure distribution- drip, LPD etc.</p>	<p>become certified.</p> <p>The Board has no authority to create a “designer” license.</p> <p>The Board’s regulations do not prevent professionals from presenting site-specific solutions to design problems.</p> <p>The Board’s regulations do not prevent such consultation.</p> <p>The Board is amending its regulations to allow licensure of VDH AOSE’s as alternative OSE’s to recognize that they have already met the current training and examination requirements established by the VDH.</p>
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	<p>b. Advanced Designers working with other than STE and gravity distribution, within the specific language of "exempt from the practices of engineering" or the next iteration of that policy.</p> <p>From Code the definition proposed is: "Conventional onsite sewage system" means a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drain field.</p> <p>Though this leaves out the GMP restrictions relating to pumping head, distance and conditions...</p> <p>The issue of dispersing secondary effluent is not addressed in code, though described by VDH's GMP. To be brief, advanced in the proposal indicates dispersal by other than the conventional means, it does not refer to other treatment processes (e.g. black boxes of pre-engineered secondary tertiary etc.) this would be LPD, drip etc. There has been comment on filtration, in vessel aeration and other devices which are not conventional nor advanced (i.e. engineered), we all agree that this field is no longer tied in neat bundles. The Regulation should not prevent professionals from specifying site specific solutions to design problems.</p> <p>At a minimum the Regulations should recognize that any Licensed or Certified soil evaluator may consult with a PE (or an "advanced designer") to create a design for a client on their site. In the real world a "conventional" evaluator is irrelevant, if a site doesn't meet prescriptive "conventional" regulations an alternative installation must be proposed, the public will find no purpose for an evaluation that does not address all eventualities for a site.</p> <p>3. Practicing AOSE's of record/interim licensee's should be qualified to sit for "advanced" OSE exam with minimal vetting. (conventional design is irrelevant). Preferable would be submit a design; approved, built and inspected and certified</p>	<p>Standards of Conduct are covered in the disciplinary section of the Board's regulations. In addition, regulants must also comply with the regulations promulgated by the VDH and other state and federal agencies. Their failure to comply can result in disciplinary action.</p> <p>The Board has amended the language to reflect June 30, 2009, rather than July 1, 2009 as the date that an AOSE certification must be valid in order to qualify for licensure. The Board has no control over the activities of the VDH or the Virginia DEQ.</p>
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by any authority to be functioning correctly. I'm advocating that once an OSE has proven they understand the criteria and have complied they should be able to take the exam, if they pass that - license them. The professionals, the industry and the public are not served by an extended examination period. We don't have time for the absurdity that is proposed (interim, conventional, advanced, we all have business to conduct with clients that expect a product). Preferable is the transition that the Professional Geologists and other fields followed, existing professionals should expeditiously qualify and assume the new endorsement. Examination and standards should be developed to address the qualifications of future licensees. Simplify the entry and regulate the entrants subsequently, this is the approach proven via the other Boards: Contractors, APELSCIDLA and others.

4. Standards of conduct are in every other shed under DPOR, and need to be addressed here too. It is simply best practices, use NRCS taxonomy and nomenclature, a contract with your client, measure in standard units, be responsible for your and your employees actions.... if we are to be governed then we need to have a standard of practice by which to evaluate complaints. Furthermore we need to be governed by our peers.

Standards of conduct shall be defined (though perhaps not in this document) allowing the Board to fairly evaluate, license, and govern the actions of licensees. This Board shall promote good practices among it's members and shall advocate protection of both the public and the licensees as all other DPOR Boards are mandated.

5. Typos- save us from the lawyers. Clean up the definitions, circular and open references of the document, i.e. resolve the apparent administrative overlap in the expiration and enactment dates so one program doesn't end before the other begins; correct erroneous or missing definitions, etc... Clarify the intention where applicable, there is clearly a market

	<p>for integrated site evaluation, system design, system construction and operating for onsite sewage works; this institutional solution by responsible companies deserves recognition and legislative support. The industry's regulants also deserve professional recognition by VDH, DEQ and other regulatory and record keeping agencies to provide information required to evaluate system sitting and performance.</p>	
<p>Jerry D. Franklin, VDH</p>	<p>18VAC160-20-74 C – Comment suggests an amendment to make clear that one may not hold both a conventional and alternative license in the same category, otherwise a person who is an evaluator, installer and operator would have to take all three test simultaneously or not be able to hold more than one license.</p> <p>18VAC160-20-84.F – Recommends that an item “3” be added to this section allowing operators a method to enter the business without having to work as an apprentice.</p> <p>18VAC160-20-96 B 1 b – Comment suggests adding agronomy and geology as bachelor degree fields that would qualify an applicant with two years experience to sit for the conventional onsite soil evaluator license.</p> <p>18VAC160-20-96 B 1 c and d – Comments that a BX degree should be required for a professional position and suggests deleting subparts c (associates degree and three years experience) and d (no degree and eight years experience). Four years to obtain a BS degree plus two years of experience compared to 2 years for an associate’s degree and three years of experience results in a shorter period of time needed to qualify with an associate’s degree.</p> <p>18VAC160-20-96 B 2 c – Comments that four years of full time experience as a conventional onsite soil evaluator or as an authorized onsite soil evaluator will not be substantially different and suggests the language be amended to allow someone with four years full time experience as an authorized onsite soil evaluator to qualify.</p>	<p>Regulation language has been amended to make clear that an alternative licensee may perform all of the tasks of a conventional licensee.</p> <p>The proposed regulations do not require experience as an apprentice, but they do require experience under a licensed individual. The comment makes no specific suggestion as to what standard would be sufficient. The Board is amending its regulations to allow agronomy and geology as qualifying bachelor degrees for meeting licensure requirements.</p> <p>The Board feels that the education and experience requirement combinations for those with less than a bachelor’s degree adequately assure competently licensed individuals.</p> <p>The Board has amended the regulation language to allow experience as a VDH AOSE and as an interim OSE to qualify.</p>

	<p>Many authorized onsite soil evaluators work in areas or situations where they rarely do alternative designs and would have difficulty producing 12 alternative system permits. Experience as an AOSE should be treated as equivalent to OSE experience.</p> <p>Experience as an OSE will not be substantially different from past experience as an AOSE and, therefore, it seems meaningless to require an AOSE with 20 plus years of onsite experience to work another four years as a conventional OSE in order to be an alternative OSE as many AOSEs work in areas where 12 alternative documents would be difficult to produce.</p>	
<p>Larry F. Baldwin on behalf of National Society of Consulting Soil Scientists, Inc.</p>	<p>Expressed concern for the “omission” by the Board for Waterworks and Waste Waterworks of professional or certified soil scientists in the performance of proper evaluations for onsite waste treatment systems as the industry has been and is fundamentally based upon soil science. NCSS requests that Soil Scientists be included in the proposed rules to perform onsite evaluations as they are the most competent to perform these evaluations by education, training, experience, certification, continuing education, and more importantly by a long and proven track record of success.</p>	<p>The 2007 and 2008 legislation requires the Board to establish a regulatory program for onsite soil evaluators who will both evaluate soils and design onsite sewage systems. CPSS's are not required to demonstrate competency in onsite sewage system design to become certified.</p>
<p>Alex C. Blackburn on behalf of Blackburn Consulting Services, LLC</p>	<p>Requests an amendment to the proposed regulations that soil and site evaluations be performed in accordance with standards set forth in the regulations by the Board for Professional Soil Scientists and Wetland Professionals.</p> <p>Proposes an amendment that any CPSS or AOSE currently certified by either DPOR or VDH by grandfathered as licensed Onsite Soil Evaluators/Professional Soil Scientists.</p> <p>Requests an amendment that CPSSs be allowed to continue preparing site and soil evaluations for onsite wastewater disposal systems and submitting permits to VDH as long as the design has been evaluated or prepared by a professional engineer.</p>	<p>The Board requires that soil and site evaluations be performed in compliance with VDH standards. Individuals who do not comply may be subject to disciplinary action.</p> <p>The authority to regulate soil scientists rests with the Board for Professional Soil Scientists and Wetland Professionals, not the WWOSSP Board. VDH AOSE's will be eligible for an alternative OSE license provided that they apply for same in accordance with the regulations.</p> <p>Nothing in the proposed regulations prohibits a CPSS from performing soil evaluations or a PE from designing onsite sewage systems.</p> <p>Onsite soil evaluators are authorized to perform evaluations and design onsite sewage systems appropriate for the soil at the site.</p>

	<p>Requests that a licensed onsite soil evaluator is limited to the preparation of site/soil evaluations for onsite wastewater disposal systems.</p> <p>States that combining the onsite soil evaluators into the CPSS Board seems consistent and more in line with what is done in other professions and states that this would be a better way to save money for taxpayers. Also stated the following:</p> <ol style="list-style-type: none"> <li>1) Licensed soil scientists/on-site soil evaluators and professional engineers with the appropriate education and training, should be allowed to conduct soil/site evaluations for all types of septic systems.</li> <li>2) Professional engineers are able to provide septic system design to the Health Department.</li> <li>3) If a soil scientist/on-site soil evaluator wishes to provide septic system design, other than for conventional systems, then there certainly should be appropriate testing for that option.</li> <li>4) All of these professional licenses should require continuing education and professional preparing inappropriate work should be reported to DPOR as designed.</li> </ol> <p>Noted that existing AOSE certification is not licensure and no different from the CPSS certification. Stated that the adoption of the proposed regulations as written will negatively impact the number of professionals that enter this field of work. Will prevent professionals from continuing to work in the profession they are trained in and impact their ability to make a living. Does not agree with the requirement to provide 36 designed onsite sewage systems.</p>	<p>There is nothing in the law that prevents an onsite soil evaluator from performing soil evaluations for other purposes as long as he does not represent himself as a CPSS.</p> <p>The 2007 legislation mandates the regulation of AOSE's by the WWOSSP Board, not the Board for Professional Soil Scientists and Wetland Professionals.</p> <ol style="list-style-type: none"> <li>1. The regulations do not prohibit CPSS's, OSE's, and PE's from conducting soil evaluations.</li> <li>2. This is correct.</li> <li>3. The Board's regulations will require such testing.</li> <li>4. The regulations do require continuing education and provide a mechanism for discipline when inappropriate work is reported.</li> </ol> <p>The comment does not provide specifics as to the nature of the negative impact nor does it suggest amendments that may reduce the perceived negative impact.</p>
<p>Susan M. Bour</p>	<p>Stated that analysis of soils and landforms for onsite wastewater disposal systems is best evaluated by a professional soil scientist. Believes that competent individuals should be used and regulated in areas of onsite sewage system products and services; however, offers that licensure of onsite soil evaluators should reside with the Board for Professional Soil</p>	<p>The 2007 legislation mandates the regulation of AOSE's by the WWOSSP Board, not the Board for Professional Soil Scientists and Wetland Professionals. The regulations, as proposed, allow CPSS's to become AOSE's upon demonstration of onsite sewage system design proficiency.</p>

	<p>Scientists and Wetland Professionals. Creating separate distinctions between soil scientists and the onsite soil evaluators seems to be a less effective way to manage onsite wastewater systems and constituent's public health and welfare. Suggests that regulations be changed to allow individuals that currently hold a soil scientist certification to be licensed to evaluate site and soil conditions and submit permits to the Virginia Department of Health for conventional systems. Also suggests the certified soil scientists be licensed to conduct the site and soil evaluations and prepare permits for VDH for any onsite wastewater disposal system that uses soil in the disposal or treatment of wastewater when the design for any non-conventional system is prepared by a professional engineer. Requests that licensure requirements differentiate between those licensed in site and soil evaluation for onsite waste water systems and those licensed in the design of onsite disposal and pretreatment systems in order to protect public health and safety and to safeguard the environment.</p>	
<p>Bruce L. Legge on behalf of Marsh &amp; Legge Land Surveyors, PLC; Karl E. Evans on behalf of Evans Soil Consulting, Inc; John F. Hutcherson, Hutcherson Soil Consultants; Ronald M. Robinson, Bowman Consulting</p>	<p>The requirement to have separate licenses proposed as COSE and AOSE for soil evaluations does not seem justifiable. A better approach may be the creation of an onsite system designer classification. Requests an amendment that soil scientists and AOSEs currently identified under either DPOR or VDH may continue to prepare site and soil evaluations for onsite wastewater systems and submit reports to VDH as licensed professionals with system design prepared by a professional engineer or by a licensed onsite wastewater designer under the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals. Requests an amendment that any CPSS or AOSE currently certified by DPOR or VDH be grandfathered as licensed onsite soil evaluators/professional soil scientists with continuing education requirements. Requests an amendment to the regulations that soil and site evaluations be performed in accordance with the standards set forth and regulated by the Board for Professional Soil Scientists and</p>	<p>The 2007 legislation mandates the regulation of AOSE's by the WWWOSSP Board, not the Board for Professional Soil Scientists and Wetland Professionals. The Board has no authority to create a license for onsite wastewater designers. The regulations, as proposed, allow CPSS's to become AOSE's upon demonstration of onsite sewage system design proficiency.</p> <p>Soil and site evaluations must be performed in accordance with standards set by the VDH in order to be approved by the VDH.</p>

	<p>Wetland Professionals as the waste treatment industry has been and is fundamentally based upon soil science.</p>	
<p>Ryan Reed, Virginia Association of Professional Soil Scientists</p>	<p>Requests the definition of OSE be expanded to include design, inspection, and certification of onsite wastewater disposal systems. Requests that the proposed OSE be limited to the design, inspection, and certification of onsite wastewater disposal systems, and not the soil evaluations as there is no difference in soil evaluations for conventional versus alternative systems. Proposes that all soils and site evaluations for the purpose of onsite wastewater disposal systems be conducted by a soil scientist who is governed under the existing Board of Professional Soil Scientists as the Board already defines qualifications for certification, examination and experience as well as the standards for the practice of soil evaluation. Recommends an amendment that DPOR defer to the soil scientists Board and accept these standards and qualifications already established. Does not agree with the proposed regulation requirements for documentation and testing for current CPSSs and AOSEs as they were already required to document their experience and pass an exam to get their respective credentials from either DPOR or VDH. Recommends that these individuals should be grandfathered as a licensed OSE. Also recommends that all current AOSEs be grandfathered as an OSE and CPSS with a continuing education requirement. Requests an amendment that CPSSs and AOSEs currently certified under either DPOR or VDH continue to prepare site and soil evaluations for onsite wastewater disposal systems and submit reports to VDH as licensed professionals as long as the system design has been evaluated or prepared by an OSE or PE. Objects to the regulation to require CPSSs to pass an exam that includes engineering design. Recommends an amendment that after the interim period persons wishing to do both soil and site evaluations and the design of onsite waste disposal will have to possess a certification as a CPSS and an OSE.</p>	<p>The 2007 legislation mandates the regulation of AOSE's by the WWWOSSP Board, not the Board for Professional Soil Scientists and Wetland Professionals. The Board has developed its regulations in consultation with the VDH and recognizes that an onsite soil evaluator's job responsibilities include evaluation and design. Soil scientists may continue to perform soil evaluations; however, onsite sewage system design is in the purview of an OSE. Regulants are required to perform their job duties in accordance with VDH regulations.</p> <p>The Board has made amendments to allow licensure of VDH AOSE's as alternative OSE's to recognize that they have already met the current standard established by the VDH. The regulations, as proposed, allow CPSS's to become OSE's upon demonstration of onsite sewage system design proficiency. The Board does not believe that it is necessary for OSE's to also possess a CPSS certification in order to practice competently.</p>
<p>Steve Eitner</p>	<p>Believes that the jump from four years with</p>	<p>The comment does not articulate how a</p>

	<p>a related degree to eight years without any degree leaves people with a college education in an unrelated field out by grouping us with folks with no college education whatsoever. Believes that individuals with a non-related degree should have a different experience requirement than individuals with no college education. Would like to see the 6 year experience requirement reinstated for individuals with a non-related degree.</p>	<p>college degree in a field unrelated to soil evaluation and system design would result in adequate competency after six years of experience.</p>
<p>Charles Nelson</p>	<p>Feels that it was not explained completely to the General Assembly that there was an existing code governing the practice of soil science. Feels that in the economic stress the Commonwealth is in it will not be a benefit to the citizens to have two DPOR Boards governing the same profession. Also has great concern of a Board – not of his peers (certified soil scientists) – reviewing site and soil characterization work brought up for a review. Feels it is necessary to have that type of review done by peers of the profession. Also suggests the following:</p> <p>The Board of Waterworks and Wastewater Works and Onsite Sewage System Professionals proposed regulations shall continue for licensure of Onsite Sewage System Installers and Onsite Sewage System Operators;</p> <p>Licensure for “Onsite Soil Evaluators” should be excluded from the proposed Onsite Sewage System Professionals regulations and placed under the jurisdiction of the existing DPOR Board of Professional Soil Scientists;</p> <p>The existing DPOR Board of Professional Soil Scientists shall be converted from certified to licensed Professional Soil Scientists;</p> <p>The Board of Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals shall create licensure for Onsite System Designers for the design of the mechanical and construction components of onsite septic systems, BUT shall exclude components of soil evaluations and site characterizations;</p>	<p>The 2007 and 2008 legislation mandated that the WWWOSSP Board, not the Board for Professional Soil Scientists and Wetland Professionals, create a program to regulate individuals who evaluate soil as well as design, install, and operate onsite sewage systems. Nothing in the Board’s regulations affects the practice of CPSS’s or PE’s.</p> <p>The Board had amended its regulations to allow licensure of VDH AOSE’s as alternative OSE’s to recognize that they have already met the current training and examination standard established by the VDH. The regulations allow CPSSs to become OSEs upon demonstration of appropriate onsite sewage system design proficiency.</p> <p>The current proposed regulations in no way</p>

	<p>Soil evaluations and site characterizations will be conducted and authorized through the licensure of PSS under the existing DPOR Board of Professional Soil Scientists;</p> <p>All current Authorized Onsite Soil Evaluators (AOSE) under the VDH and all current CPSS shall be grandfathered as a licensed Professional Soil Scientist;</p> <p>The licensure of Professional Soil Scientists shall not obstruct the practice engineering or exclude Professional Engineers from their current standards of practice as defined by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects. This licensure also excludes soil evaluations for agricultural production purposes.</p> <p>States there is a clear separation between soil characterization and design – recommends before the BWWW, before finalizing the regulations – consult with the CPSS Board, the VAPSS Board, and the VAAOSEs and give them all input in the final crafting of the regulations. Also suggests that site and soil evaluations are separate from design in the regulations and have the CPSS Board license them; and have two levels of designers for conventional and alternative designs.</p>	<p>affect the practices of PE's or CPSS's.</p> <p>All Board meetings were noticed in accordance with the Virginia Administrative Process Act and were open to the public.</p>
<p>Nan Gray</p>	<p>States that the proposed regulations do not seem to require that a soil evaluator know anything about soils – recommends that soils need not be mentioned in the regulations as they are already covered by another Board at DPOR. Stated that Soil Science is not about sewage disposal in the soil; however, to effectively and safely have sewage in soil one needs to understand the soil. States that DPOR should not accept the proposal from VDH until the Board for Professional Soil</p>	<p>The 2007 and 2008 legislation mandated that the WWOSSP Board, not the Board for Professional Soil Scientists and Wetland Professionals, create a program to regulate individuals who evaluate soil as well as design, install, and operate onsite sewage systems.</p> <p>The Board has amended its regulations to allow EHS employees to qualify for an interim</p>

	<p>Scientists and Wetland Delineators is included in the process.</p> <p>Soil evaluator belongs under the CPSS Board not the BWWW. The proposed regulations do not cover the inclusion of EHSs who have a great deal of training.</p>	<p>license.</p>
<p>Robert W. Hicks on behalf of Office of Environmental Health Services; Karen Remley on behalf of Virginia Department of Health</p>	<p><b><u>Installing alternative systems</u></b>                  Comment: The proposed regulations allow alternative system installers to install only alternative systems. The knowledge, skills and abilities (KSAs) required to successfully install alternative onsite sewage systems are not distinct from those required to successfully install conventional onsite sewage systems. Rather the KSAs for alternative systems are additional to those required for conventional systems. The regulations should be amended to make clear that alternative onsite sewage systems installers may install both conventional and alternative systems, while a conventional onsite sewage system installer is limited to installing conventional systems.</p> <p>Suggested change: "Alternative onsite sewage system installer" means an individual licensed by the board to construct, install, and repair a treatment works that is <del>not</del> <u>either</u> a conventional onsite sewage system or an alternative onsite sewage system.</p> <p><b><u>Definitions of installers</u></b>                  Comment: The definitions of "Alternative onsite sewage system installer" and "conventional onsite sewage system installer" appear to contain a definition of "operate" that is different than that included in the proposed regulations. The definitions need to be changed to be internally consistent.</p> <p>Suggested Changes: "Alternative onsite sewage system operator" means an individual licensed by the board to <del>(i) place into or take out of service a unit process or unit processes; (ii) make or cause adjustments in the operation of a unit process at a treatment works; or (iii) determine if a component or device is functional</del> operate a conventional or alternative onsite sewage system.</p>	<p>Regulation language will be amended to make clear that an alternative licensee may perform all of the tasks of a conventional licensee.</p> <p>The Board has amended a number of the proposed regulations to reflect VDH's comments.</p> <p>The Board has amended the language as suggested.</p>

	<p>Conventional onsite sewage system operator" means an individual licensed by the board to <del>(i) place into or take out of service a unit process or unit processes; or (ii) make or cause adjustments in the operation of a unit process at a conventional onsite sewage system; and (iii) determine whether a component or device is functional</del> operate a conventional onsite sewage system.</p> <p>"Operate" means any act of an individual, which that may impact on the finished water quality at a waterworks or the plant effluent at a wastewater works <u>or onsite sewage system</u>.</p> <p><b><u>Application</u></b>          Comment: 18VAC 160-20-76 does not seem to include any language that would require verification of the applicant's experience. The Virginia Department of Health is concerned that some applicants may list experience that is not of sufficient quality to ensure practical knowledge in the field of licensure. The language below is intended to allow verification of experience gained as a VDH employee. The Board may wish to include additional language to include experience gained outside of VDH.</p> <p>Suggested Change: Include a new paragraph in 18VAC 160-20-76 that includes the following: "Any applicant relying on experience with the Virginia Department of Health (VDH) to meet the minimum requirements for licensure shall provide an endorsement from his or her direct supervisor at VDH that his or her job performance has been satisfactory."</p> <p><b><u>Expiration of VDH AOSE certification</u></b>          Comments: The definition of "Authorized Onsite Soil Evaluator" refers to persons who hold certification from the Virginia Department of Health on effective date of the proposed regulations. The recent practice of VDH has been to include an expiration of June 30, 2009 for AOSE certification regardless of when the certification was issued. This is a technical issue that needs to be corrected. Suggested change: "Authorized onsite soil</p>	<p>The Board will amend the regulations to recognize VDH AOSE certifications valid on June 30, 2009.</p> <p>The Board agrees with the comment and will make amendments accordingly.</p> <p>An alternative OSE may evaluate soils for a conventional system and a conventional OSE may evaluate soils for an alternative system. A conventional OSE may not design an alternative system.</p>
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	<p>evaluator" or "AOSE" means an individual holding an authorized onsite soil evaluator certification issued by the Virginia Department of Health that is valid on the effective date of this chapter <u>or on June 30, 2009</u>.</p> <p><b><u>Evaluating soils for alternative systems</u></b>  Comments: The definition of "alternative onsite soil evaluator" in the proposed regulations appears to be a printing error. The definition of "conventional onsite soil evaluator" allows persons holding this license to evaluate soils for conventional onsite sewage disposal systems only. The definitions do not address the need to certify that sites are suitable for onsite sewage disposal systems when no system is designed.</p> <p>§54.1-2301 requires "(e) the division of onsite soil evaluators into classes, one of which shall be restricted to the design of conventional onsite sewage systems" but does not require that the evaluation of soils for onsite sewage disposal systems be limited by classification. Although a higher level of knowledge is required to design alternative systems, the level of knowledge required to properly evaluate site and soil conditions is the same for both alternative and conventional systems. The definitions of "alternative onsite soil evaluator" and "conventional onsite soil evaluator" should be amended so that the distinction between the two classifications is limited to design.</p> <p>Further, the knowledge, skills and abilities (KSAs) required to design alternative onsite sewage systems is not distinct from those required to design conventional onsite sewage systems. Rather, the KSAs for alternative design build upon those required for conventional systems. The regulations should be amended to make clear that "alternative onsite soil evaluators" may design both conventional and alternative systems.</p> <p>Language needs to be included to state that evaluators may certify that sites are suitable for onsite sewage systems.</p> <p>Suggested changes: "Alternative onsite</p>	<p>The Board agrees with the recommended change.</p> <p>The Board agrees with the recommended changes.</p> <p>The Board agrees with the recommended change.</p>
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	<p>soil evaluator" means an individual licensed by the board to <del>construct, install, and repair a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge.</del> <u>evaluate soils for conventional and alternative onsite sewage disposal systems, to certify sites as being suitable for conventional and alternative onsite sewage systems, and to design conventional and alternative onsite sewage systems.</u></p> <p>"Conventional onsite soil evaluator" means an individual licensed by the board to evaluate soils and soil properties in relationship to the effects of these properties on the use and management of these soils as the locations for <u>conventional and alternative onsite sewage disposal systems, to certify that sites are suitable for conventional and alternative sewage systems and to design</u> for conventional onsite sewage systems.</p> <p><b><u>Direct supervision</u></b>          Comment: The definition of "direct supervision" is unclear.</p> <p>Suggested change: "Direct supervision" means being responsible for the compliance with the chapter by <u>work of any unlicensed individual who, for the purpose of obtaining the necessary competence to qualify for licensure,</u> is engaged in activities requiring an operator, installer, or evaluator license, <del>but who is not licensed to perform those duties.</del></p> <p><b><u>Add "onsite sewage system" to definitions</u></b>          Comment: The definitions of "operate", "operator-in-training", "owner", and "responsible charge" should include a reference to onsite sewage system.</p> <p>Suggested changes: "Operate" means any act of an individual, which that may impact on the finished water quality at a waterworks or the plant effluent at a wastewater works <u>or onsite sewage system.</u></p> <p>"Operator-in-training" means an individual employed by an owner to work under the</p>	<p>The Board agrees with the recommended change.</p> <p>The Board has clarified the language to make clear that alternative licensees may perform the same tasks as conventional licensees.</p> <p>The Board agrees with the recommended change.</p>
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	<p>Suggested change: "Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes including, but not limited to, pumping, power and other equipment and appurtenances, septic tanks and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluent resulting from such treatment as defined in the Sewage Handling and Disposal Regulations (12VAC5-610).</p> <p><b><u>Alternative licensees should be allowed to design, install or operate conventional systems</u></b></p> <p>Comment: As currently written, the 18VAC160-20-74.C and the definitions would prohibit any person from possessing licenses to install, operate, or evaluate soils for both alternative and conventional onsite sewage systems. The changes to the definitions proposed above would correct this by allowing the holder of an "alternative" license in any category to do work related to both alternative and conventional systems. If the changes proposed above for the definitions are not accepted, this section should be amended as shown below to allow persons to hold licenses in any category for both alternative and conventional systems. In any case, persons who are licensed to install, operate or evaluate soils for alternative systems should be allowed to do work within the same category for conventional systems.</p> <p>Suggested Change: No person shall act as an conventional onsite soil evaluator, alternative onsite soil evaluator, conventional onsite sewage system installer, alternative onsite sewage system installer, conventional onsite sewage system operator, or alternative onsite sewage system operator without possessing a valid license issued by the board. Issuance of an alternative license shall void all previously issued conventional licenses. <del>No licensee shall hold both a conventional and an alternative license simultaneously.</del> The board shall issue a license only after an individual has met all experience and</p>	<p>The Board agrees and will amend its regulations accordingly.</p>
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	<p>examination requirements as set forth in this chapter.</p> <p><b><u>Good Standing</u></b>          Comment: 18VAC160-20-76.G should be edited to clarify that that this paragraph does not apply to persons who do not hold a license.</p> <p>Suggested change: G. Each applicant <del>shall be in good standing as a licensed</del> holding a license as a waterworks operator, wastewater works operator, onsite soil evaluator, onsite sewage system operator, or onsite sewage system installer shall be <u>in good standing</u> in every jurisdiction where licensed; and the applicant shall not have had a license as a waterworks operator, wastewater works operator, onsite soil evaluator, onsite sewage system operator, or onsite sewage system installer that was suspended, revoked or surrendered in connection with a disciplinary action or that has been the subject of disciplinary action in any jurisdiction prior to applying for licensure in Virginia.</p> <p><b><u>Eligibility for interim status for VDH certified AOSE's</u></b>          Comment: 18VAC160-82, paragraphs A and D include the requirement that the onsite soil evaluator license must be valid on the effective date of these regulations. As noted above, this is will create problems because VDH has been issuing certificates with an expiration date of June 20, 2009 regardless of when the certificate was issued. As written, both paragraphs seem to state that certificate from VDH must be issued on the effective date; separating the phrase "issued by VDH" with commas clarifies this.</p> <p>Suggested changes: A. The board shall issue an interim onsite soil evaluator license to any individual who possessed a valid authorized onsite soil evaluator (AOSE) certification, issued by the VDH, on the effective date of this chapter <u>or on June 30, 2009</u>, provided that the interim license application is received by the department no later than six months after the effective date of this chapter. AOSE-certified individuals who fail to have their</p>	<p>The Board agrees with the comment and has amended the proposed regulation accordingly.</p>
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	<p>application in the department's possession within six months after the</p> <p>D. Each applicant for an interim onsite soil evaluator license shall make application in accordance with 18VAC160-20-76 and shall provide evidence that he possessed a valid AOSE certification, issued by the VDH, on the effective date of this chapter or on <u>June 30, 2009</u>.</p> <p><b><u>Eligibility for interim licensure, VDH employees</u></b>          Comment: VDH employees currently perform about 70% of onsite soil evaluations and design systems for the associated construction permits. Only about 20% of VDH employees working in the onsite sewage program currently hold AOSE certification, which has only been required for private sector individuals performing site evaluations. When the DPOR regulations become effective, VDH employees working in the onsite sewage program will have to obtain a license or stop providing the service expected by the public.</p> <p>VDH is currently working on a plan to allow the majority of the agency's employees who work in the onsite sewage program to become certified ASOE's prior to July 1, 2009. However, this plan is a burden on the agency and on individual employees, who would be required to pay for both AOSE certification from VDH and an interim license from DPOR within a period of a few months.</p> <p>Suggested change: Add a section entitled "Interim licensure of individuals employed by the Virginia Department of Health" that includes the following:</p> <p>The Board shall issue an interim onsite soil evaluator license to any individual who is an employee of the Virginia Department of Health on the effective date of this chapter provided that:</p> <ol style="list-style-type: none"> <li>1. the individual possesses at least the minimum combination of education and experience required for licensure as a conventional onsite soil evaluator;</li> <li>2. on or before December 31, 2009 the individual submits a complete application,</li> </ol>	
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	<p>including an endorsement from his or her direct supervisor the applicant's job performance has been satisfactory, and the application fee.</p> <p>The interim license shall expire on the last day of the month that is 36 months after the date of issuance by the department or on the date that the person is no longer employed by the Virginia Department of Health, whichever occurs first. The interim license shall not be renewed.</p> <p><b><u>Clarification for interim licenses for handlers and operators</u></b>  Comments: 18VAC160-20-84 needs clarification that this section applies only to interim licensure of onsite sewage system installers and operators.</p> <p>Possession of a Sewage Handling and Disposal Permit (SHDP) from VDH, which allows the holder to handle sewage (i.e., to collect sewage and transport it by vehicle), is unrelated to installation of onsite sewage systems. Many entities that install sewage disposal systems do not possess a Sewage Handling and Disposal Permit. The requirement that an applicant possess an SHDP to obtain interim licensure as an installer should be removed and replaced with a requirement that the applicant have experience installing onsite sewage disposal systems.</p> <p>Paragraph F states that an applicant must have experience as an onsite system operator. There is currently no "operator" category in Virginia regulations and therefore it appears that none can qualify for an interim license.</p> <p>Suggested changes:  18VAC160-20-84. Interim license, onsite sewage system installer and operator.  A. The board may issue an interim onsite sewage system <u>installer or operator</u> license to any individual who makes application in accordance with 18VAC160-20-76, and who meets the specific entry requirements of this section, provided that the application is received by the department no later than 12 months after the effective date of this chapter.  Individuals who fail to have their</p>	<p>The Board agrees with the comment and has amended regulation language.</p>
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	<p>months of <u>documented</u> full-time experience <del>as an alternative onsite sewage system operator</del>, <u>providing maintenance for alternative onsite sewage systems.</u></p> <p><b><u>Clarification on obtaining a new OSE license</u></b></p> <p>Comments: 18VAC160-20-96 appears to restrict licensure to those who possess an interim license (which requires VDH AOSE certification) or have the required amount of experience working under an onsite evaluator fully licensed by DPOR. Such a requirement is overly burdensome to persons currently working as soil evaluators because it does not fully take into account experience gained prior to the effective date of the proposed regulations.</p> <p>The majority of onsite soil evaluators are VDH employees who are not required to possess and do not possess, AOSE certification. While it is anticipated that most VDH employees who evaluate soils will obtain certification prior to the effective date of these regulations, some will not because they lack sufficient experience. VDH certification requires a minimum of four years of experience for those who are not Virginia Certified Professional Soil Scientists, while the minimum experience requirement proposed in these regulations for a conventional onsite soils evaluator is 2 years.</p> <p>The proposed regulations imply that experience working under a person holding an interim license will not be considered qualifying experience. In fact, the regulations imply that an unlicensed individual could not work under the supervision of a person holding an interim license. Both interpretations will create problems by unnecessarily limiting the number of soil evaluators for several years.</p> <p>Suggested Changes:          18VAC160-20-96. Qualifications for licensure - onsite soil evaluators.          A. Each applicant shall make application in accordance with 18VAC160-20-76 and shall meet the specific entry requirements provided for in this section.</p>	
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	<p>B. Specific entry requirements.</p> <p>1. Conventional onsite soil evaluator <del>(conventional onsite sewage system only)</del>. Each individual applying for an initial conventional onsite soil evaluator license shall have a valid interim onsite soil evaluator license or meet one of the following requirements and pass a board-approved examination:</p> <p>a. A valid certificate as a Virginia certified professional soil scientist from the Board for Professional Soil Scientists and Wetland Professionals and one year of full-time onsite soil evaluation experience;</p> <p>b. Two years of full-time experience evaluating site and soil conditions in compliance with this chapter under the direct supervision of a licensed conventional onsite soil evaluator, <del>or of a licensed alternative onsite soil evaluator, or an interim licensed soil evaluator, or as an employee of the Virginia Department of Health prior to July 1, 2009</del> and a bachelor's degree <u>from an accredited institution of higher education</u> with a major in soil science, biology, chemistry, <u>geology, agronomy, engineering, environmental health, or environmental science, or other major field of study which provides a basic understanding of scientific principles relevant to the practice of soil evaluation and onsite sewage system design</u> ;</p> <p>c. Three years of full-time experience evaluating site and soil conditions in compliance with this chapter under the direct supervision of a licensed conventional onsite soil evaluator, <del>or of a licensed alternative onsite soil evaluator, or an interim licensed soil evaluator, or as an employee of the Virginia Department of Health prior to July 1, 2009</del> and an associate's degree in <u>waterworks, wastewater works, environmental science, or engineering technology or other major field of study which provides a basic understanding of scientific principles relevant to the practice of soil evaluation and onsite sewage system design or a bachelor's degree in field not listed in 18 VAC 160-20-96.b</u>; or</p> <p>d. Eight years of full-time experience evaluating site and soil conditions in compliance with this chapter under the direct supervision of a licensed</p>	
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	<p>conventional onsite soil evaluator, or of a licensed alternative onsite soil evaluator, <u>or an interim licensed soil evaluator, or as an employee of the Virginia Department of Health prior to July 1, 2009.</u></p> <p>2. Alternative onsite soil evaluator <del>(alternative onsite sewage system only)</del>. Each individual applying for an initial alternative onsite soil evaluator license for alternative onsite sewage systems shall possess a valid interim onsite soil evaluator license or a valid conventional onsite soil evaluator license, pass a board-approved examination, and meet one of the following requirements:</p> <p>a. Two years of full-time experience in evaluating and designing onsite sewage systems obtained during the last four years under a currently licensed alternative onsite soil evaluator licensee <del>or interim licensed evaluator</del>;</p> <p>b. Three years of full-time experience as an authorized onsite soil evaluator certified by the Virginia Department of Health (VDH) and evidence of completing the soil evaluation and system design work on a total of at least 36 onsite sewage systems (12 of which must be alternative system permits approved by the VDH); <u>or three years of full-time experience as an employee of VDH or a local government evaluating and designing onsite sewage systems, including the review of alternative onsite sewage system designs.</u></p> <p>c. A total of four years of full-time experience as a conventional onsite soil evaluator licensee <u>or interim licensee or evaluating soils as a governmental employee prior to July 1, 2009.</u></p> <p>Satisfactory completion of postsecondary courses in wastewater, biology, chemistry, geology, hydraulics, hydrogeology, or soil science may substitute for up to half of the <del>above</del> experience requirement listed in <u>1 and 2 above</u> at the rate of one month per semester hour or two-thirds of a month per quarter hour.</p> <p><b><u>Alternative installers</u></b>  Comments: 18VAC160-20-97 lists states that one may qualify as a conventional onsite sewage system installer by providing certification from authorized</p>	
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	<p>onsite soil evaluators or professional engineers that the applicant is qualified to install conventional onsite sewage systems. After July 1, 2009 there will be no Authorized Onsite Soil Evaluators.</p> <p>As written, one may only meet the qualifications for licensure as an alternative onsite sewage system installer by installing a number of alternative onsite sewage disposal systems. Such practice by an unlicensed individual is prohibited by the proposed regulations. An achievable pathway for licensure needs to be provided.</p> <p>The requirement to install at least a given number of alternative onsite sewage systems, half of which must include other than a gravity drainfield may be difficult or impossible to achieve in some areas of the state, where relatively few alternative systems are installed.</p> <p>Suggested changes:          18VAC160-20-97. Qualifications for licensure - onsite sewage system installers.</p> <p>A. Each applicant shall make application in accordance with 18VAC160-20-76 and shall meet the specific entry requirements provided for in this section for the license desired.</p> <p>B. Specific entry requirements.</p> <p>1. Conventional onsite sewage system installer. Each individual applying for an initial conventional onsite sewage system installer license shall pass aboard-approved examination and shall meet one of the following requirements:</p> <p>a. Two years experience obtained during the last four years <u>as or under the supervision of a sewage disposal system (SDS) contractor licensed by the Virginia Board for Contractors installing alternative onsite sewage systems or conventional onsite sewage</u>; or</p> <p>b. Certification by three authorized onsite soil evaluators (AOSE), <u>licensed onsite soil evaluators</u> or professional engineers that the applicant is competent to install conventional onsite sewage systems.</p> <p>2. Alternative onsite sewage system installer. Each individual applying for an initial alternative onsite sewage system</p>	
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	<p>installer license shall pass a board approved examination and shall meet one of the following requirements:</p> <p>a. Provide contractor completion statements and associated operation permits issued by the VDH, which shall be certified by a licensed individual, for work performed after the effective date of this chapter. The statements and permits must verify that the applicant had successfully installed 36 onsite sewage systems during the preceding three years, six of which must be alternative systems, <del>three of which must include absorption field designs other than a gravity subsurface drainfield</del>; or</p> <p>b. <u>Two years of experience as sewage disposal system (SDS) contractor licensed by the Board for Contractors or as a licensed or interim licensed conventional onsite sewage system installer and certification by at least three licensed or interim licensed alternative onsite soil evaluators or professional engineers that the applicant is competent to install alternative onsite sewage systems</u>; or</p> <p><del>b c.</del> Provide contractor completion statements and associated operation permits issued by the VDH, which shall be certified by a licensed individual, for work performed before the effective date of this chapter verifying that the applicant successfully installed 12 alternative onsite sewage systems - six of which must include absorption field designs other than a gravity subsurface drainfield during the past three years.</p> <p>If an individual is not listed on the completion statement but did perform the installation, then the individual named on the contractor's completion statement and associated operation permit issued by the VDH may certify an individual's work performed on an alternative onsite sewage system that was installed prior to the effective date of this chapter provided that the application is received by the department no later than 12 months after the effective date of this chapter.</p> <p><b><u>Clarify qualifying experience</u></b>          Comment: 18VAC160-20-98 should be modified to clarify that experience under an interim licensed operator is qualifying experience.</p>	
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	<p>Suggested changes:          18VAC160-20-98. Qualifications for licensure - onsite sewage system operators.</p> <p>A. Each applicant shall make application in accordance with 18VAC160-20-76 and shall meet the specific entry requirements provided for in this section.</p> <p>B. Specific entry requirements.</p> <p>1. Conventional onsite sewage operator. Each individual applying for an initial conventional onsite sewage system operator license shall pass a board approved examination and shall meet one of the following requirements:</p> <p>a. Have no high school diploma, at least one year of full-time experience as a sewage handler, or one year of full-time experience working under the direct supervision of a licensed <u>or interim licensed</u> conventional onsite sewage system operator or of a licensed <u>or interim licensed</u> alternative onsite sewage system operator; or</p> <p>b. Have a high school diploma or GED.</p> <p>2. Alternative onsite sewage system operator. Each individual applying for an initial alternative onsite sewage system operator license shall possess a valid conventional onsite sewage system operator license <u>or interim license</u>, shall pass a board-approved examination, and shall meet one of the following requirements:</p> <p>a. Have no high school diploma and 24 months of full-time experience working under the direct supervision of an alternative onsite sewage system operator licensee <u>or an alternative sewage system operator interim licensee</u>; or</p> <p>b. Have a high school diploma or GED and 12 months of full-time experience working under the direct supervision of an alternative onsite sewage system operator licensee <u>or alternative onsite sewage system interim licensee</u>; or</p> <p>c. Possess a valid Class IV or higher wastewater works operator license and have satisfactorily completed an onsite sewage system operator course approved by the board or have six months of full-time experience working under the direct supervision of an alternative onsite sewage system operator licensee <u>or an</u></p>	
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	<p><u>alternative onsite sewage system operator interim licensee.</u></p> <p><b>Testing</b>                  Comment: If not currently available, DPOR should consider providing testing in other than written form to candidates for licensure when appropriate.</p>	
<p>David Beahm on behalf of Central Virginia Soil Consulting, Inc.</p>	<p>Suggests that Virginia adopt a similar course of action as North Carolina's and anything less would be substandard. Requests that the Board for Certified Professional Soil Scientists become the Board for <u>Licensed</u> Professional Soil Scientists and that all existing CPSSs be grandfathered as licensed soil scientists. Recommends that the Board define the standard of practice for performing any soil evaluation that the "Field Book for Describing and Sampling Soils" published by the National Soil Survey Center, National Resources Conservation Service of the U.S. Department of Agriculture is utilized for all sites. Licensees should be tested on the use of this book and how to apply it and all sites evaluated will use this as a common language for describing soil profiles and for the preparation of site characterization work. If a licensed soil evaluator is brought before DPOR for any reason; this document should be used as <u>one</u> of the standards for determining malpractice.</p> <p>Concerned with maintaining professionalism in soil science. Would like to see CPSS Board oversee the evaluators for both conventional systems and alternative systems. Feels any CPSS should be competent enough to take any site and evaluate it for alternative or conventional systems.</p>	<p>The comment does not specify where Virginia's proposed regulations are weak and North Carolina's are stronger.</p> <p>The WWWOSSP Board has no authority to change the Board for Professional Soil Scientists and Wetland Professionals regulations to implement a license for CPSS's instead of a certification.</p> <p>VDH Regulations set the performance standards for onsite sewage systems and the Board requires its regulants to comply with VDH regulations. Failure to do so can result in disciplinary action.</p>
<p>Gary C. Renger</p>	<p>Believes DPOR should license AOSEs and CPSSs to continue working as they have in the past. AOSEs and CPSSs with AOSE designations should continue to do soil evaluations for drainfield sites and designs to include alternative systems and drip systems and the CPSS without the AOSE designation will do all other soil characterization work. Individuals with AOSE designation at present should be</p>	<p>The Board has amended the proposed regulations to allow VDH AOSE's to qualify for alternative OSE without taking an examination.</p> <p>Nothing the proposed regulations prevents a CPSS from evaluating soils. Further, a CPSS may qualify for an OSE license by obtaining the system design experience and passing the Board's examination.</p>

	grandfathered into the new designation.	
Dale Bragg	Against the proposal to amend regulations to license onsite sewage system installers and operators due to the state of the economy right now. Requests an amendment to grandfather anyone who is already doing the work.	The 2007 legislation mandates that the Board regulate installers and operators.
Michael V. Campbell; "vdh"	<p>18 VAC 160-20-82 Interim licensure... "The Board shall issue an interim onsite soil evaluator license to any individual who possessed a valid authorized onsite soil evaluator (AOSE) certification issued by the VDH on the effective date of this chapter..."</p> <p>Recommendation: add "and to any VDH Environmental Health practitioner who has completed the VDH training and testing regimen and is currently engaged in onsite soil evaluation as a part of their VDH employment."</p> <p>Justification: VDH local health departments employ over 200 environmental health practitioners for whom onsite soil evaluation and design of conventional systems is a primary job duty. These individuals have completed extensive formal training in soil characterization, system design, and regulatory requirements. They have completed both classroom and field testing. It has never been a condition of employment or expectation that they attain the AOSE certification as this certification was primarily intended for persons practicing in the private sector. Granting an interim license to these trained and experienced staff (the two persons I mentioned to you on our staff have 30 and 50 years experience respectively) seems reasonable to facilitate continued performance of their job duties and provide a transition period for VDH to modify its personnel practices to include licensure as a future condition of employment.</p> <p>18 VAC 160-20-96 Qualifications for licensure... "B, 1, Conventional onsite soil evaluator... b. Two years of full-time experience evaluating site and soil conditions in compliance with this chapter under the</p>	<p>The Board has amended the proposed regulations to allow VDH AOSEs to qualify for an alternative OSE license without taking an examination.</p> <p>The Board has amended the proposed regulations to allow certain VDH employees to qualify for an interim OSE license that authorizes practice as a conventional OSE as a part of their VDH duties. Private practice is not authorized.</p>

	<p>direct supervision of a licensed conventional onsite soil evaluator or of a licensed alternative onsite soil evaluator...</p> <p>c. Three years... under the direct supervision of a licensed conventional onsite soil evaluator or of a licensed alternative onsite soil evaluator...</p> <p>d. Eight years... under the direct supervision of a licensed conventional onsite soil evaluator or of a licensed alternative onsite soil evaluator...</p> <p>Recommendation: add “or as a VDH environmental health practitioner who has completed the VDH training and testing regimen” as an alternative option for “b”, “c”, and “d”.</p> <p>Justification: Prior to the date when these amendments become effective there will be no one licensed as an onsite soil evaluator to provide the required supervision (“under the direct supervision of a licensed conventional onsite soil evaluator or of a licensed alternative onsite soil evaluator”), thus this language seems to disqualify all experience prior to the implementation date. Was that the intent of the Board?</p> <p>VDH local health departments recruit environmental health practitioners for whom onsite soil evaluation and design of conventional systems is a primary job duty. These individuals generally have a B.S. in Environmental Health or a natural science and will complete extensive formal training in soil characterization, system design, and regulatory requirements during their probationary periods. They will complete both classroom and field testing. During the first three years of implementation, newly hired VDH staff will, at best, be working under the direct supervision of a person holding an interim soil evaluator license. The suggested added language seems reasonable to facilitate training and development of newly hired VDH staff to include licensure as a condition of continued employment.</p>	<p>The Board has amended the language to recognize VDH AOSE supervision and supervision by certain VDH employees.</p>
<p>Curtis Moore on behalf of Virginia Onsite Wastewater Recycling Association</p>	<ul style="list-style-type: none"> <li>o Comment: The regulations need to ensure that “repairs” completed by installers are done with the full knowledge of the Operator</li> </ul>	<p>The Board does not believe this provision is practical. Repairs are usually arranged by the homeowner. There is no mechanism available to assure that the operator is aware</p>

	<p>responsible for that system. In addition, repairs should not include “maintenance” activities as would be performed by an Operator. Discussion: Alternative and Conventional Onsite Sewage System Installers are allowed to “repair” systems by definition. In some cases, this is currently done without the knowledge of the Operator. This “repair” can cause changes in treatment process that impacts the performance of the system. In short, we don’t believe the regulations should allow Installers to perform the duties of Operators under the umbrella of performing “repairs”. It is believed that clarifying what is meant by repairs in the regulations is more appropriate than forcing the Board to make this distinction during a disciplinary hearing.</p> <ul style="list-style-type: none"> <li>▪ Suggestion: Clarify in the regulations what is intended by the term “repair” (as used in definitions for Installers) by adding the following definition: ““Repair of an onsite sewage system” means performing the actions required to restore an onsite sewage system to a good or sound condition after decay or damage as outlined on a repair permit issued by the appropriate regulatory agency. Repairs to systems with an Operator shall be completed under the guidance or direction of the Operator.”</li> </ul>	<p>of the nature of any repairs the homeowner has made.</p> <p>The Board believes that this provision is more appropriate for VDH regulations.</p> <p>The enabling statute requires licensure for all individuals who install onsite sewage systems.</p> <p>The issue of whether Section 54.1-2302 of the Code of Virginia required every individual working on an onsite sewage system installation to have an onsite sewage system installer license came to the Board’s attention during its March 24, 2009 meeting.</p> <p>It was observed that many individuals working on an installation are using skills that are not unique to onsite sewage system installation. A backhoe operator would be using the same skills on an onsite sewage system installation as he would be using to dig footings, for example.</p> <p>The licensing requirement would be most</p>
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	<p>Discussion: This appears to be the most direct and simple method of helping to ensure that a) Operators are informed about work to be done on a system that they are responsible for; and b) the role of the Installer in performing repairs is clearly defined. If other options are deemed by the Board to be more appropriate to address these two issues, VOWRA would support an alternative approach.</p> <ul style="list-style-type: none"> <li>o Comment: Section 74, Paragraph C (or the individual definitions of the onsite professionals) needs to further clarify who is envisioned to need a license within each profession. Discussion: At present, the proposed regulations are not clear as to whether everyone that “touches” a portion of an onsite system project is required to have a license or whether only specific people that control the quality of the work are required to hold a license. For example, it is unclear as to whether a) every person on a job site during the installation of a system is expected to hold a license; or b) the “supervisor” of each job site is the only one expected to hold a license; or c) the “owner of the company” is the only person expected to hold a license. (The easy solution is probably to only expect the “owner” or designated individual to hold the license. However, this might not be appropriate for all</li> </ul>	<p>effective and least burdensome if one onsite sewage system installer licensee were to be responsible for the installation’s compliance with all applicable laws and regulations.</p> <p>The Board came to a consensus that Section 54.1-2302 shall be interpreted to require each licensed contractor with an SDS classification to have one licensed onsite sewage system installer designated as the responsible person in charge of any onsite sewage system installation or repair activity. No other individual involved in the installation or repair is required to possess an onsite sewage system installer license. However, the licensed onsite sewage system installer is responsible for the compliance by the unlicensed installers with all pertinent laws and regulations.</p> <p>Section 54.1-2302 requires those operating onsite sewage systems to be licensed. Pumping clearly can affect the effluent at an onsite sewage system. Sewage handlers are regulated by the VDH.</p>
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	<p>practitioner groups. For instance, it is much more desirable for a licensed operator to be present during every site visit where inspections are performed. Therefore, the concept of a job site “supervisor” being licensed is generally more desirable if our goal is to ensure that the tasks are being executed appropriately.)</p> <ul style="list-style-type: none"> <li>▪ Suggestion: VOWRA would recommend that at least one person that is present during the performance of the regulated tasks be required to hold a license. Discussion: At this point in time, it is not practical to require every person who “touches” an onsite system job to hold a license since licensure is new to the practitioner groups and the workforce will need time to gain experience and education. However, it should be practical to enforce the requirement that each job site have a licensed individual present.</li> </ul> <ul style="list-style-type: none"> <li>○ Comment: These regulations should offer guidance as to whether individuals who pump septic tanks are required to hold some form of an Onsite Sewage System Operator license or whether they are exempted from licensure as an Operator. Discussion: Alternative and Conventional Onsite Sewage System Operators will be licensed,</li> </ul>	<p>The definition has been amended.</p> <p>The 2007 legislation applies only to systems that do not result in a point source discharge.</p> <p>The Board has amended the definition.</p> <p>The Board has amended the definition.</p> <p>The Board has amended the definition.</p> <p>The 2007 legislation applies only to systems that do not result in a point source discharge.</p>
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	<p>in part, to “make or cause adjustments in the operation of a unit process”. Individuals who pump septic tanks do exactly this when they pump a tank. Unfortunately, this act can sometimes negatively impact the treatment process and/or make the diagnosis of operational problems very difficult for the operator. It is not clear in the proposed regulations as to whether or not individuals who pump septic tanks would need to have a license in order to pump septic tanks. We believe that this issue is best addressed in the regulations verses the Board having to make that judgment call during a disciplinary hearing.</p> <ul style="list-style-type: none"> <li>▪ Suggestion: Require individuals who pump septic tanks to hold some form of an Onsite Sewage System Operator license. If the Board chooses to capture all of these individuals under a Conventional Operator license, the definition of that license should specifically include: 1) the removal and transportation of sewage, septage, and sewage sludges from conventional onsite sewage systems and 2) the removal and transportation of sewage, septage, and sewage sludges from alternative systems when done under the</li> </ul>	<p>Definitions that are not used in the text of the regulation will be deleted from the final regulation document.</p> <p>The Board has amended its proposed regulations to make clear that the onsite soil evaluators may evaluate soils for both alternative and conventional systems.</p> <p>The Board agrees and will amend its proposed regulations accordingly.</p> <p>An amendment has been made to clarify that maintenance is to be performed by a licensed operator.</p> <p>The Board has made amendments to require experience under a contractor with an SDS specialty issued by the Virginia Board for Contractors to qualify for installer and experience operating onsite sewage systems to qualify for operator.</p> <p>An examination is not required to qualify for an interim license.</p>
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	<p>direction of an Alternative Onsite Sewage System Operator.</p> <p>Discussion: The only alternative to capturing individuals who pump septic tanks under a license is to specifically exempt the act of pumping systems from needing a license. Since this can substantially impact the way an onsite system functions, it is in the best interest of the public to have this population licensed. It is probably not necessary to require individuals who pump septic tanks to hold an Alternative Operator license if they are simply pumping out alternative systems. (The knowledge, skills, and abilities required to operate alternative systems are much greater than those required to pump the tanks of alternative systems. Therefore, if we required the same license to pump as we did to operate the system, we would be testing pumpers for a much higher level</p>	<p>The Board has made an amendment similar to the suggestion.</p> <p>The language has been amended to make clear that any person applying for an onsite sewage system individual license must pass an examination, except for those that possessed a VDH OSE certification valid on June 30, 2009. An examination is not necessary to qualify for an interim license.</p> <p>The Board has amended its language to include a similar requirement in 18VAC160-20-145, conflicts of interest.</p>
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	<p>of competence than is required to perform their task.) However, the pumping of alternative systems should only be done under the direction of that system's operator due to the potentially negative impacts that pumping could have on the treatment processes and the masking of problems that could occur through pumping. The masking of problems is especially problematic because it impacts the ability of the operator to properly evaluate and manage the system.</p> <p>Section Specific Comments and Suggestions</p> <ul style="list-style-type: none"> <li>o Section 10 (Definitions):             <ul style="list-style-type: none"> <li>▪ The definition of the Alternative Onsite Sewage System Installer needs to be changed to recognize that they can install conventional systems. (See the discussion under Section 74, below.)</li> <li>▪ The Board should consider changing the definition of Alternative Onsite Sewage System Installer by</li> </ul> </li> </ul>	
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	<p>removing the words “and does not result in a point source discharge” if the inclusion of those words could be construed to prohibit a person holding this license from being able to install a discharge system. (The population of installers that will hold this license have, to date, been the best choice to install smaller discharge systems in Virginia. If their license does not allow them to install discharge systems, we ask: Who will be left to install these types of systems?)</p> <ul style="list-style-type: none"><li>▪ The definition of Alternative Onsite Soil Evaluator needs to be changed. (It is currently the same as the definition for Alternative Onsite Sewage System Installer. During this change, it should be recognized that they can perform their duties for both alternative and conventional systems.)</li><li>▪ The definitions of both the Alternative and Conventional Onsite Soil Evaluators need to recognize that both individuals</li></ul>	
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	<p>design systems (for residential quality effluent with flows of less than 1,000 gallons per day) as well as evaluate soils for use in all onsite systems.</p> <ul style="list-style-type: none"><li>▪ The definition of Alternative Onsite Sewage System Operator should be changed to clarify that they are performing their duties on onsite sewage systems. (During this change, it should be recognized that they can perform their duties for both alternative and conventional systems.)</li><li>▪ The Board should consider incorporating the term “maintenance” in the definition of both types of Onsite System Operators. (Due to the way maintenance is defined in this regulation, it is believed that incorporating it would result in clarifying the role of the Operator and more appropriately defining the “boundaries” that installers need to honor when doing repairs and operators need to honor in performing their</li></ul>	
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	<p>duties. This would be in addition to the suggestions recommended in the General Comments and Suggestions section of this document.)</p> <ul style="list-style-type: none"> <li>▪ This section includes a definition for “maintenance”, “sewage handler”, and “transportation” that do not appear to be used in the regulations. We advocate for their use as described in other places in this document, but if those suggestions are not incorporated in the final version, we would recommend taking the definitions out of the regulations.</li> </ul> <ul style="list-style-type: none"> <li>○ Section 74 (License required): Paragraph C needs to be modified to allow individuals holding an alternative license to also perform the tasks of the conventional license holder. This change needs to be addressed in conjunction with definition modifications, discussed previously, to ensure that the intent of the regulations is properly conveyed. Discussion: Paragraph C prohibits one individual from holding both a conventional and an alternative license simultaneously. The definition of an Alternative Onsite Sewage System Installer in Section 10 appears to only allow those possessing the license to perform their duties on “a treatment works that is not a conventional onsite sewage</li> </ul>	
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	<p>system.” The combination of these two items would, if not changed, appear to result in those holding an Alternative Onsite Sewage System Installer credential being prohibited from installing, constructing, or repairing conventional systems. Attention would also need to be given to the revised definition of Alternative Onsite Soil Evaluator to make sure a similar situation is not created when this definition is modified.</p> <ul style="list-style-type: none"><li>○ Section 84 (Interim license, onsite sewage system installer and operator):<ul style="list-style-type: none"><li>▪ Paragraph E, items 1 and 2, need to be significantly changed. VDH does not have a Sewage Handling and Disposal Permit that installers of septic systems hold. We would suggest similar requirements to those contained in Section 97, Paragraph B, Item 1. The examination should be waived for the interim license. The experience required should be in installing alternative or conventional systems for the conventional interim license. The experience required should be in installing alternative systems for the alternative interim license.</li></ul></li></ul>	
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	<ul style="list-style-type: none"><li>▪ Paragraph F, items 1 and 2. We believe the intent of the regulation is for applicants to prove that they have been performing the tasks of each class of operator. However, the wording appears to indicate that the applicant would have to actually be licensed as an operator under these regulations in order to apply for an interim license. We would suggest the following as a possible wording substitution: “Interim XXX onsite sewage system operator applicants shall have 12 months of full-time experience performing the duties of a XXX onsite sewage system operator as defined in 18VAC160-20-10.”</li><li>○ Section 96 (Qualifications for licensure – onsite soil evaluators): Paragraph B, item 1. It is unclear through the sentence structure as to whether a person holding an interim license will be required to pass a board-approved examination or whether this provision only applies to those meeting the criteria in items a, b, c, or d that follow.</li><li>○ Section 140 (Discipline): This section adequately addresses the</li></ul>	
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	<p>actions that would require discipline for most of the regulated practitioners except for onsite soil evaluators. It is felt that this group should be held to a higher standard due to their role as a “designer”. The theory is that this group’s tasks are very closely associated with the tasks Professional Engineers perform as designers. To that end, we would recommend the addition of the language currently contained in 18VAC 10-20-710.</p> <ul style="list-style-type: none"> <li>▪ The regulant shall promptly and fully inform an employer or client of any business association, interest, or circumstance which may influence the professional’s judgment or the quality of service influence over what type of system is specified does not appear to fully address the potential conflicts of interest that designers should be aware of.</li> <li>▪ The regulant shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to by, all interested parties in writing.</li> <li>▪ The regulant shall neither solicit nor accept financial or</li> </ul>	
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	<p>other valuable consideration from material or equipment suppliers for specifying their products or services.</p> <ul style="list-style-type: none"> <li>▪ The regulant shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with a client or employer in connection with work for which the regulant is responsible.</li> </ul>	
<p>Pamela M. Pruett</p>	<p>Concerned with the minimum qualifications to become a Conventional Onsite Evaluator and an Alternative Onsite Evaluator as they will cause current AOSEs to compete against their would-be clients for business which in turn would cause a loss of business and possibly livelihood.</p>	<p>The Board will amend its proposed regulations to allow current AOSE's to qualify for alternative OSE licenses. It is not clear from the comment how current AOSEs would be competing against would-be clients.</p>
<p>David Burris</p>	<p>States this licensure is a good idea. States that the Board for Professional Soil Scientists and Wetland Delineators should be the place to license soil evaluators – unlike installers and operators, evaluators are designers who must design a system with what they think is the site and soil conditions, based on their evaluation and the regulations. Licensed soil evaluators should be able to provide an evaluation for a conventional or alternative design. States there should be separation between licenses for evaluators and designers and evaluators should be with the CPSS Board. An engineer should design alternative systems based on the GMPs – some site are easier than others as are the systems designed – a lot of experience is required as there is very little science to go on in this profession. Also states that the definition of Onsite Soil Evaluator should read as follows: “means an individual licensed by the Board to evaluate site and</p>	<p>The Board is mandated to regulate onsite soil evaluators and cannot turn over the regulation of soil evaluators to another board. The language will be amended to make clear that OSE's may evaluate soil for both conventional and alternative systems.</p>

	soil conditions and design an onsite septic system for that site.”	
J. T. Frazier	<p>States that the definition of an alternative onsite soil evaluator is incorrect.</p> <p>18VAC160-20-74.C is confusing – does the alternative onsite soil evaluator supersede the conventional onsite soil evaluator – if so this was not defined in the definitions.</p> <p>18VAC160-20-76 – how long after an application is accepted does DPOR have to offer the exam?</p> <p>Definition of alternative onsite sewage system operator states an individual can :make adjustments or cause adjustments in the operation of a unit process at a treatment works” – does this mean an operator can adjust systems design by an engineer without the engineer’s approval – can an operator make adjustments to performance based systems without an engineer’s approval.</p> <p>Recommends a change to the experience requirements to state “experience also means the time spent under direct supervision of an authorized onsite soil evaluator, evaluating soils.”</p>	<p>An alternative evaluator may perform all of the functions of a conventional evaluator.</p> <p>Exams are expected to be available by July 1, 2009.</p> <p>The operator must perform his duties competently. Failure to do so can result in disciplinary action.</p> <p>The Board feels the current experience requirements are correct and place the emphasis on experience under someone that can both evaluate soils and design systems.</p>
VDH Employee 1995	Suggests removing the requirement for prior work submission. Regulations should specify minimum standards of practice for soil permeability.	The comment does not make a specific recommendation or state a specific hazard resulting from the current language.
John Ewing	Recommends that all current AOSE’s are grandfathered into the new licensure program. Does not feel any current CPSS’s or AOSE should be required under regulation to take any tests for the new licensure. States VDH should grant certified installers the power to repair simple components of a septic system as long as the installer reports to VDH what work was performed. States DPOR is reinventing the wheel from what VDH had already done – previous testing and experience should not be disregarded because the job of oversight of a program is changing hands.	The Board has amended its proposed regulations to allow VDH AOSE’s to become alternative OSE’s without a further exam.
Kimberly Harper	18VAC160-20-76.H – states a past	The Board must assure the suitability of every

	<p>misdemeanor or felony conviction received prior to becoming an AOSE should have nothing to do with becoming a licensed AOSE under DPOR. Regulation should be changed to receiving a felony conviction <b>after</b> becoming licensed then you <b>may</b> lose your license.</p> <p>Recommends the education requirements are readdressed – change the wording to “three years experience...and any Bachelor of Science degree, or an Associates degree in...”.</p> <p>States that all CPSSs can do soils but not all CPSSs can design onsite systems – some engineers can design onsite systems but relatively few can do soil... AOSEs are trained to do both and yet they are required to meet the most stringent of onsite soil and design qualifications. States that since only an abbreviated design is necessary for a certification/subdivision approval and not a complete system design – any authorized/licensed OSE should be able to do this type of work.</p>	<p>individual to whom it issues a license. A review of past disciplinary action and criminal convictions is necessary to make that judgment.</p> <p>The comment does not articulate a hazard from the current standards or suggest how the comment would address a hazard.</p> <p>Onsite soil evaluators are authorized to evaluate soils and design systems.</p>
<p>Mike Huett</p>	<p>Recommends the addition of the following definitions:</p> <p>States that the definition of direct supervision is unclear – to make this work DPOR needs to create a category of “in-training.”</p> <p>“Contact Hour” means one hour of instruction as approved by the Board or a university for improving knowledge, skills, and abilities of a particular regulant’s activity in his associated profession or professions.</p> <p>“Operator in Training (OIT)” means the license issued by the Board to an individual prior to the completion of the experience requirements for that level of certification.</p> <p>“Onsite Soil Evaluator in Training (OSE-IT)” means the license issued by the Board to an individual prior to completion of the experience requirements for that level of certification.</p>	<p>The comment does not make clear the nature of the hazards that exist under the proposed regulations or a hazard the comments will address.</p>

	<p>“Operator in Responsible Charge (ORC)” means the individual designated by a person, firm, or corporation (municipal or private) owning control of a waterworks or waste waterworks system as the operator of record and who has primary responsibility for the operation of such system as defined in GS 90A-46.</p> <p>“Temporary Operator License” means a license issued to a home owner for a residential waste waterworks, without examination and following prescribed training from the manufacturer and designer of the waste waterworks, when the Board finds that the supply of certified operators, or persons with the training and experience necessary for certification, is inadequate, or the cost to provide such service will exceed \$1,000 per year.</p> <p>Also states that the Board should review North Carolina’s program which is already established while creating these new regulations.</p>	<p>The comment does not state how the North Carolina program would reduce an existing hazard.</p>
<p>Angela Whitehead</p>	<p>18VAC160-20-96 – Does not support the OSE program being regulated by the Board for Waterworks and Waste Waterworks. Requests that the proposed OSE be limited to the design, inspection, and certification of onsite wastewater disposal systems – removing the ability to perform soil evaluations. Proposes that all soil and site evaluations for the purpose of onsite wastewater disposal systems be conducted by a Certified Professional Soil Scientist (CPSS) who is governed under the existing Board for Professional Soil Scientists and Wetland Professionals as this Board already defined the qualifications for certification, examination and experience as well as standards of practice of soil evaluation – recommends an amendment that DPOR defer to the CPSS Board and accept these standards and qualifications already established. Requests an amendment that any current CPSS under DPOR or VDH continue to prepare site and soil evaluations for onsite wastewater disposal systems and submit reports to VDH as licensed professionals as long as the system design has been prepared by an OSE or professional engineer.</p>	<p>The development of the onsite soil evaluator regulations does not duplicate the work of the Board for Professional Soil Scientists and Wetland Professionals as onsite soil evaluators evaluate soil and design appropriate sewage systems for that site. Soil scientists are not authorized by their certification to design onsite sewage systems. The entry standards do recognize soil scientists in that they are allowed to apply for a license after showing onsite sewage system design experience.</p> <p>The 2007 legislation mandates the regulation of AOSE’s by the WWWOSSP Board.</p> <p>The 2007 legislation mandates the regulation of OSE’s whose responsibilities include both system design as well as soil evaluation necessary for that design.</p>

<p>Anonymous</p>	<p>The new requirements will impact over 200 VDH employees and there may be as many as 100 after July 1, 2009, who will no longer be permitted to do this type of work.</p>	<p>The Board has amended its regulations to allow licensure of VDH AOSEs as alternative OSE's to recognize that they have already met the current standard established by the VDH. Amendments also have been made to allow EHS employees to qualify for an interim license.</p>
<p>Anonymous</p>	<p>Consider including stakeholders directly linked to and involved in the proposed regulations – VAPSS, DPOR's CPSS Board, VAAOSE, VDH, etc.</p>	<p>All Board meetings were noticed in accordance with the Virginia Administrative Process Act and were open to the public.</p>
<p>VDH Employee 1980</p>	<p>Section 150 – the Board should accept continuing education that a college confirms is appropriate for continuing education and place clear directives in the regulations – all training should not have to be approved by the Board. The Proposed regulations should clearly define what is acceptable and not instead of making organizations come to the Board 45 days before the course takes place.</p>	<p>Continuing education must cover subject matter areas on the exam and no prior approval is required.</p> <p>The 45 day standard applies to courses that may be used to substitute for experience.</p>
<p>Mike Salsbury</p>	<p>Operator Entry – the Board should have the same requirements for all licensees – operators should be required to submit the same 36 documents for their prior work the same as installers and evaluators.</p>	<p>The comment does not articulate a reason for the suggested change.</p>
<p>Thomas Houston</p>	<p>Government that governs less is more effective – the Board consists of professionals and regulators who should not be crafting regulations.</p>	<p>The General Assembly assigned the regulatory authority to the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals.</p>
<p>Bill Marks</p>	<p>Regulations should be amended to allow onsite professionals to evaluate and design discharging systems – otherwise owners will have to hire professional engineers to evaluate and design the systems which is very expensive for a simple amount of work.</p>	<p>The enabling statute applies only to non-discharging onsite sewage systems.</p>
<p>Dan Richardson</p>	<p>Keep the regulation that a licensee not be a convicted felon and not be convicted of a crime of moral turpitude. Permit holders of AOSE licenses to also do conventional onsite evaluation and design. Grandfather in all currently licensed AOSEs that are not CPSSs into the system and require all AOSEs to possess a CPSS within three years of July 1, 2009. Provide a way for VDH employees to continue to evaluate and design systems in order to keep offices in business after July 1, 2009. Requests that the regulations take in</p>	<p>The Board agrees concerning criminal convictions and will provide due process under the Virginia Administrative Process Act for any applicant with a conviction record.</p> <p>Alternative OSE licensees will be permitted to do conventional evaluations and design.</p> <p>Amendments will allow VDH AOSE certificate holders to qualify for licensure without an examination. The comment does not give a compelling reason for requiring AOSE's to also be a CPSS nor does the comment give a</p>

	<p>account the liability taken by AOSEs. Requests that a requirement be incorporated to require licensees to have errors and revisions insurance of a sufficient limit that would be anticipated in comparison to the amount of work they do and the level of work they do.</p>	<p>compelling reason for requiring insurance.</p>
<p>Anonymous</p>	<p>The two licenses required should be one to evaluate the soils and one for design components. The soils should be evaluated based on the soil properties – not which system is wanted and how to make the soils fit that system.</p>	<p>The two classes of license are mandated by statute.</p>
<p>Bill Huett</p>	<p>The Board should allow manufacturers to hold an operator license for their specific proprietary product so they can act as an operator for their equipment without having to meet the proposed requirements for alternative system operators. Owners will receive cheaper and better service if manufacturers can service their own equipment. The Board should required bonds as in other states regulations.</p>	<p>All operators must meet the Board’s standards and the comment does not make a compelling case for exempting manufacturers. No reason is stated for a bond requirement.</p>
<p>Chris Jacobs</p>	<p>Regulations should require licensees to report violations or bad practice that they identify during their routine work to the appropriate authority. The Board should require a mandatory minimum fine if a licensee knows of a violation or should have known, but did not report it. The Board should consider making designers, installers, and operators provide a bond or warranty to back up their work should a problem develop for the owner. If not then a regulation should be adopted to require a licensee respond within three days of notice that a sewage system, for which he designed, installed or operated is malfunctioning. Suggests the Board have a rule that prohibits licensees from engaging in the construction, upgrade, modification, emergency repair, or expansion of any sewage system or well without first obtaining required permits from required agencies. The Board should require licensees to seal their work, which would mean that their work and services conform with all applicable regulations and laws.</p> <p>Also suggests the Board follow the following standards set by another state:</p>	<p>Failure to comply with regulations impacts all regulants and the board anticipates that regulants will report violations which they observe. VDH is expected to take appropriate action concerning any system’s failure to function properly and will report any violations by licensees to the board for disciplinary action.</p> <p>The comment describes provisions more suitable for VDH regulations governing septic system approval and continued proper operation.</p>

	<p>Minimum Standards for Operators of Alternative Sewage Systems.</p> <p>An inspection shall consist of the collection and recording of the following information:</p> <p>(a) a general description of the system components and layout;</p> <p>(b) quantification of the source/type of sanitary sewage. This should include type of use (domestic or commercial/industrial) as well as the design flow and whether or not the facility being served is occupied at the time of the inspection;</p> <p>(c) an analysis of the factors for the system's proper function; and, threats to public health and environment;</p> <p>(d) water use records for the previous two years for facilities served by public water supply, if available from the supplier;</p> <p>(e) a description of the septic tank including:</p> <ol style="list-style-type: none"> <li>1. approximate age, size, and condition of the tank;</li> <li>2. distance between bottom of grease/scum layer and the bottom of the outlet baffle;</li> <li>3. distance between the top of the scum layer and the top of the outlet tee;</li> <li>4. thickness of the grease/scum layer;</li> <li>5. depth of the sludge layer and distance from sludge to outlet tee;</li> <li>6. physical condition of inlet and outlet tees;</li> <li>7. any evidence of leakage into or out of tank; and</li> <li>8. any evidence of backup of effluent.</li> </ol> <p>(f) a characterization of the distribution box, and of dosing tanks with pumps, if any, including:</p> <ol style="list-style-type: none"> <li>1. any evidence of solids carryover;</li> <li>2. leakage into or out of the distribution box;</li> <li>3. whether the flow is equally divided;</li> </ol> <p>and</p>	
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	<p>4. any evidence of backup.</p> <p>(g) a description of the condition of the soil absorption system including:</p> <ol style="list-style-type: none"> <li>1. any signs of hydraulic failure;</li> <li>2. condition of surface vegetation;</li> <li>3. level of ponding within disposal area;</li> <li>4. encroachments into disposal area;</li> </ol> <p>and</p> <ol style="list-style-type: none"> <li>5. other sources of hydraulic loading.</li> </ol> <p>(h) the location of private water supply well (if any) in relation to system components; and</p> <p>(i) a copy of pump-out records on file with the local Approving Authority.</p> <p>The inspector shall make reasonable professional efforts to determine the location and condition of all system components and relevant physical features. If any component cannot be located or inspected, or any determination cannot be made, the inspector shall state on the inspection form the reasons and the steps taken to complete the inspection. At a minimum, reasonable professional efforts require compliance with the inspection requirements and protocol set by law or regulation.</p> <p>Where an inspection is conducted for the purpose of refuting or corroborating the findings of a prior inspection, reasonable professional efforts shall require, at a minimum, that the inspector employ methods to determine the location and condition of all system components and relevant physical features that are comparable to the methods employed by the prior inspector.</p> <p>If the system includes a septic tank and distribution box, the condition of these components and the surrounding soil shall be observed for indications as to whether groundwater has infiltrated the system. The elevation of nearby water bodies, or evidence of groundwater infiltration in other subsurface structures (for example, cellars), or hand augering to determine depth may aid in determining whether the</p>	
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	<p>system is located in the groundwater. The methods used to determine high groundwater elevation shall be described in the inspection report.</p> <p>All components of the soil absorption system shall be located. Where the failure criteria are not triggered, the location may be approximated by considering design flow, location of the distribution box and direction of outlet pipes, and physical condition of the site. The location may also be determined by running a metal snake or similar device from the outlet of the distribution box and using a metal detector, or use of similar methods. Nothing written above shall prevent an owner from choosing to establish the location of the leaching system through other methods.</p> <p>(6) Compliance with Department Guidance. The inspector shall complete the system inspection in accordance with the Department's Guidance for the Inspection of Subsurface Disposal Systems as in effect on the date of the inspection and approved by the Board.</p> <p>The operator shall note the following:</p> <p>Whether there is backup of sewage into the facility served by the system or any component of the system as a result of an overloaded and/or clogged soil absorption system or cesspool;</p> <p>Whether there is a discharge of effluent directly or indirectly to the surface of the ground through ponding, surface breakout or damp soils above the disposal area or to a surface water of the Commonwealth;</p> <p>Whether the static liquid level in the distribution box is above the level of the outlet invert;</p> <p>Whether the liquid depth in a cesspool is less than six inches from the inlet pipe invert or the remaining available volume within a cesspool above the liquid depth is less than ½ of one day's design flow;</p> <p>Whether the septic tank or cesspool requires pumping more than four times a</p>	
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	<p>year;</p> <p>Whether the septic tank and/or the tight tank is made of metal, unless the owner or operator has provided the System Inspector with a copy of a Certificate of Compliance indicating that the tank was installed within the 20 year period prior to the date of the inspection; or the septic tank and/or the tight tank is cracked or is otherwise structurally unsound, indicating that substantial infiltration or exfiltration is occurring or is imminent;</p> <p>Whether a cesspool, privy or any portion of the soil absorption system extends below the high groundwater elevation</p>	
"VDH"	<p>Supports previous comment made regarding 18VAC160-20-82 granting any VDH Environmental Health Specialist who has completed the required testing and training and is currently working in onsite soil evaluation as part of their employment an interim license. VDH should hire a CPSS for each health district and let that individual conduct random soil checks on consultants' work. If that CPSS finds someone submitting bad work – reports the complaints to DPOR and the matter is resolved. Experience should be correlated with a certain number of actual soil evaluations. Managers should be required to submit at least 50 soil evaluations over the past two years.</p>	<p>The Board has amended the proposed regulations to allow certain VDH employees to obtain interim licenses allowing them to perform onsite soil evaluation as a part of their VDH employment but not as a private practitioner.</p>
Janet M. Swords	<p>18VAC160-20-82.A and D – suggests extending all current AOSE certifications to expire on the effective date of this chapter.</p>	<p>The Board has no authority to extend AOSE certifications issued by VDH.</p>
Leon Campbell	<p>Change the style the regulations are written in. The Board should consider dividing the regulations into parts such that each part deals with a specific license.</p>	<p>The comment does not provide adequate detail concerning the current regulation style's shortcomings, or specifically how reorganization will reduce an existing hazard.</p>
Paul Boukarakis	<p>Recommends the Board include additional authority for COSEs and AOSEs to be allowed to site wells and inspect them. The Board should include a minimum standard of practice that the AOSE or COSE, whenever providing work to a client, must show the proposed well and other important site features on a scaled drawing using a survey plat.</p>	<p>The Board has no authority to regulate wells.</p>

William Nelson	Time spent working under the supervision of an interim onsite soil evaluator should qualify as time towards the years of experience working under supervision of a licensee.	The Board has amended to language to make clear that work under the supervision of an interim onsite soil evaluator is qualifying.
Quinn Zimmerman	Regulations are a step in the right direction.	The Board thanks the commenter for his support.
Richard Rouse	This bill should be returned to committee to accurately determine the additional cost to citizens of the Commonwealth of Virginia.	The costs are determined based on the best information available and reviewed by the Department of Planning and Budget.
Lance Gregory	Does not feel that a 15% increase in pay would go over well with the public or private sector counter parts in these hard economic times. Change is not easy for anyone but feels that everyone needs to pull together to make the transition from VDH to DPOR a smooth one.	The Board cannot take action to affect anyone's pay but will appreciate any support toward a smooth transition.
Helen Jones	Contact hour should be defined as 60 minutes.	The board disagrees. Fifty minutes is the length of college classes and recognizes the need for periodic breaks.
Dirtman	AOSEs, CPSSs, VDH employees, and EHSs all need to work together for the common goal of public health, safety, and the environment.	The Board agrees.
Rodney Whittaker	18VAC160-20-96.B.1.b – Geology should be added as a relevant degree as it is relevant to the onsite sewage disposal program.	The Board has added geology as a relevant degree.
Lynn Jones	18VAC160-20 – There is no reason to redefine the role and responsibility of the CPSS to that of an onsite soil evaluator, or to minimize the professionalism of those who have acquired their CPSS license by making that license only one of several criteria required to be able to test for an onsite soil evaluator license. There is no distinction made in the investigative process of evaluating a soil whether that soil will be used for a conventional or an alternative onsite sewage system – and there is no distinction between how the proposed onsite soil evaluator and the existing CPSS will evaluate that soil. DPOR should take advantage of a program that is already established; that it does not define any classification of onsite soil evaluator, and that it recognizes the CPSS as the onsite soil evaluator.	Onsite soil evaluators must design systems as well as evaluate soils. Certified professional soil scientists may evaluate soils but may not design systems. The regulation language will be amended to make clear that conventional OSE's may evaluate soil for any system but may design conventional systems only.

<p>Anonymous</p>	<p>DPOR will struggle with this program due to complaint investigations.</p>	<p>The Board believes that DPOR will be able to handle the complaints received.</p>
<p>Brent McCord</p>	<p>18VAC160-20-10 – Have only one soil evaluator designation for onsite sewage disposal system of all types. Eliminate interim and conventional onsite soil evaluator designations. Have soil evaluators qualify under current training regimen provided or overseen by VDH with ongoing improvements.</p> <p>18VAC160-20-82 &amp; 96 – If an EHS leaves VDH employment they should be financially liable for repaying VDH for their training if they are employed in the private sector onsite program in Virginia within 2 years of leaving.</p> <p>Allow all current VDH licensed AOSEs to become licensed under new DPOR regulations. Allow an appropriate amount of time to qualify for the soil evaluator designation – time limit should consider economic situation.</p> <p>Require all new applicants for onsite soil evaluator designation to pass training regimen, testing and education/experience set up by DPOR with guidance from VDH.</p> <p>Minimum requirements for an AOSE applicant would be (A) College level degree, completion of VDH onsite training program and 5 years supervised technical work experience in onsite sewage disposal industry, or (B) a high school degree or GED, completion of VDH onsite training program and 10 years supervised technical work experience in onsite sewage disposal industry. Appropriate testing should be able to more accurately identify the qualified applicants. A small percentage of unqualified will get by. The system can identify the licensed but unqualified evaluator, contractor, or designer by the licensed and concerned evaluator, contractors and designers reporting poor quality work or behavior to DPOR. In order for the system to achieve the objective of a reliable onsite program with major implementation of field work by the private sector and monitoring by the Health Dept., the private sector has to take</p>	<p>The Board is mandated by the 2008 legislation to have two classes of OSE's.</p> <p>Reimbursing VDH for training costs is not under the Board's authority.</p> <p>VDH AOSE's will be able to obtain a license without further examination.</p> <p>Future applicants will be required to meet standards developed with VDH input.</p> <p>The Commenter does not articulate a hazard caused by the proposed minimum requirements or how his suggested changes will reduce a hazard.</p> <p>The Board's examination will eliminate individuals with inadequate system design ability. The Board has no authority to create an onsite system designer classification.</p> <p>The Board believes the regulation's licensing standards and examination will eliminate unqualified applicants.</p>

	<p>a much greater role to identify the bad apples.</p> <p>Residential onsite designer classification: Licensed soil evaluators are not necessarily qualified to design onsite systems. Create an onsite system designer classification. Create a test that can identify these individual. Allow these individual to design all types of residential onsite systems less than 1000 gpd. Create (incorporate) some standards similar to AOSE regulations for Soil Evaluators and the new designer classification.</p> <p>Onsite system installers: Keep the proposed conventional onsite system installer license for current, and below-average drainfield contractors working now. The proposed alternative onsite sewage disposal system contractor licensee should show knowledge (testing) of the important installation considerations and necessary cooperation and interaction required with the system designer and Health Dept.</p>	
<p>VDH/AOSE</p>	<p>Regulations should be changed to consider a geology degree a pertinent degree for licensure.</p> <p>Where does this leave the consumer – where will complainants go for solutions? Who will make the judgment call if a system was installed properly if VDH employees will no longer be qualified to do so? Fix the regulations so that the license means something, and that the individuals who hold this license are accountable for the work they are performing. Set the qualifications so that people wishing to uphold the health of the Commonwealth will qualify for all licensure, and make everyone accountable, public and private.</p>	<p>The Board will add geology as a pertinent degree.</p> <p>The Board has made amendments allowing VDH employees meeting specific conditions to qualify for an interim license.</p>
<p>Martin Thompson</p>	<p>The language used in the definitions that differentiate between conventional and alternative systems, installers, operators, and soil evaluators should mirror each other for clarity. In fact, the definitions “conventional onsite sewage system” and “alternative onsite sewage system” are inadequate. Under these definitions, it could be argued that a Puraflo system is</p>	<p>The Board believes that the definitions as amended in response to other comments are adequate.</p>

	<p>conventional. It consists of a septic tank with pumped conveyance to a gravity distributed subsurface drainfield. It just happens to have an inline, packed bed filter attached. The definition of alternative should include a reference to secondary treatment devices.</p> <p>The definition of alternative onsite sewage system operator should read "... (ii) make or cause adjustments in the operation of a unit process at a treatment works alternative onsite sewage system;"</p> <p>54.1-2301 does not grant the Board authority to establish and adopt regulations for the licensure of a conventional onsite sewage system operator, only the authority to establish and adopt regulations for the licensure of operators of alternative onsite sewage disposal systems. A conventional onsite sewage system operator does not make sense. There are no unit processes or operational adjustments necessary with a conventional system. Is it the intent of the regulation to require an individual to hold a conventional onsite sewage system operator license to re-adjust the dial-a-flows of an out-of-level distribution box? A licensed conventional onsite sewage system installer should be able to perform this work as a repair.</p> <p>54.1-2301 does not grant the Board authority to establish and adopt regulations for the licensure of conventional and alternative onsite soil evaluators, only the authority to establish and adopt regulations for the licensure of onsite soil evaluators. There is no need to have both conventional and alternative onsite soil evaluators. Issue one license for onsite soil evaluators. Just because a developer chooses to use alternative onsite sewage disposal systems to gain maximum lot yield in a subdivision (reduction in drainfield size), doesn't mean the soils become more complex. It either meets the onsite regulations or it doesn't. If an owner wants to convert his approved 4 bedroom site that was evaluated by a licensed conventional onsite soil evaluator to 5 bedrooms by simply adding Puraflo modules to the system, it doesn't make sense to have him</p>	<p>The language in 54.1-2301.C of the <i>Code of Virginia</i> provided the authority to regulate operators and provides adequate authority.</p> <p>The Board is mandated to divide onsite soil evaluators into classes, one of which must be restricted to designing conventional onsite sewage systems.</p> <p>A conventional OSE will be authorized to perform soil evaluations for both alternative and conventional systems.</p> <p>The legislation mandates that the Board create a regulatory program for OSE's as individuals. The authority to regulate onsite sewage systems remains with VDH.</p> <p>The suggested definition amendment would be accurate only for onsite soil evaluators and not operators or installers as they are not</p>
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	<p>re-evaluate the site using a different, licensed alternative onsite soil evaluator.</p> <p>VDH employees are often called upon to evaluate existing onsite sewage disposal systems, determine the cause(s) of malfunction, and issue repair permits. Who now has the authority to provide this service? A licensed soil evaluator? A licensed operator? If it is a soil evaluator, then a CPSS with one year of full-time onsite soil evaluation experience would be qualified to perform these duties. That CPSS may have never seen an existing system, let alone a malfunctioning one. A CPSS is qualified to evaluate soils and determine if they meet the onsite regulations for a particular type of system. They may not be qualified to determine the functionality of existing onsite systems and the factors that ultimately result in their performance (surface grading, sewage strength, sewage load, installation, plumbing fixtures, physical damage, maintenance history, human behavior, etc.). If it is an operator, no one will be able to evaluate existing alternative sewage disposal systems since onsite sewage professionals don't typically gain Class IV or higher wastewater works licenses nor have the opportunity to work the required 6 months as an operator-in training in a Class IV wastewater works.</p> <p>The definition "interim license" is incorrect. It should state "means a method of regulation whereby the board authorizes an unlicensed previously certified individual to engage in activities requiring a specific license provided for in this chapter for a limited time to obtain the necessary competence qualifications to qualify for that specific license.</p> <p>The specific entry requirements for an interim conventional onsite sewage system installer license and an interim alternative onsite sewage system installer license are exactly the same. As stated previously, what is a Sewage Handling and Disposal Permit (SHDP) that is required to be held by the firm employing the interim licensee? VDH does not issue a SHDP to firms that install systems</p>	<p>"previously certified".</p> <p>The Board is amending the entry standards to be more specific and eliminate the reference to SHDP.</p>
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<p>John Sawdy</p>	<p>The regulations should contain requirements on how to deal with the repair of systems. New regulations still allow VDH be in the middle holding on with no real direction to turn to.</p>	<p>The legislation transferred only the regulation on onsite soil evaluators to the Board. All other VDH authority concerning systems remains with VDH.</p>
<p>EHS – Fairfax County</p>	<p>The recommended regulation changes proposed by the Board for Waterworks and Wastewater Works Operators Regulations have been discussed in great detail by many others that have a stake in the impact of the regulations. I wanted to comment on some of the descriptions presented in the Virginia Register of Regulations. I hope my comments and others’ comments are meaningful enough to show the Board and the Department of Professional and Occupational Regulation (DPOR) that it is time to revisit, in detail, these regulations.</p> <ul style="list-style-type: none"> <li>• Basis: Section 54.1-2301 C of the Code of Virginia states that the board shall establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators. Further, the board, in consultation with the Board of Health, shall adopt regulations for the licensure of (i) onsite soil evaluators; (ii) installers of alternative onsite sewage systems as defined in § 32.1-163; and (iii) operators of alternative onsite sewage systems as defined in § 32.1-163. Such regulations shall include requirements for (a) minimum education and training, including approved training courses; (b) relevant work experience; (c) demonstrated knowledge and skill; (d) application fees to cover the costs of the program, renewal fees, and schedules; and (e) other criteria the board deems necessary.</li> </ul> <p>The above basis for the regulations was</p>	<p>The Board has set standards for the new professions that are different from the standards for waterworks and wastewater works operators.</p> <p>The regulation amendments do not change the tasks that a CPSS is authorized to perform.</p>

	<p>intended for onsite soil evaluators, onsite sewage system installers and onsite sewage system operators. None of these classes of professionals resemble or require the same qualifications as Waterworks Operators (Drinking Water?) and Wastewater Works Operators. The concrete and steel of major treatment plant operations mostly found in the public water and public sewerage industry.</p> <p>The onsite sewage disposal systems evaluators, installers and operators should be licensed on their own merit and not bunched with a completely different subset of professionals. Certified Professional Soil Scientists (CPSS) are currently regulated by DPOR. Why move them to a different class? These are professionals that worked hard to become CPSS.</p> <ul style="list-style-type: none"> <li>• Purpose: The Virginia General Assembly, as evidenced by passing relevant legislation during the 2007 session, considered the regulation of onsite soil evaluators, sewage system installers, and sewage system operators as essential to protecting the health, safety, and welfare of the citizens of the Commonwealth. The Board has adopted the proposed amendments to its existing regulations to implement the regulation of onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators as mandated by the provisions of Chapters 892 and 924 of the 2007 Acts of Assembly.</li> </ul> <p>As you can see in this paragraph from the Virginia Register the purposed regulations in the paragraph do not address Waterworks and Wastewater Works Operators. The regulations are intended for onsite soil evaluators, onsite sewage system installers and onsite sewage system operators (Does this mean every citizen that maintains an onsite sewage system on their property must be licensed as an operator?). Onsite sewage system operators are nothing like a Waterworks or</p>	<p>The proposed amendments place evaluators, onsite system operators and installers in categories different from waterworks and wastewater works operators.</p> <p>The “negative impact” cited by the commenter does not articulate the nature of the adverse impact. VDH function is unchanged except for the regulation of onsite soil evaluators.</p> <p>The Board’s regulations apply to individuals that install systems, not firms. The Board is mandated by statute to create a regulatory program for individuals.</p> <p>The Board is mandated to create the regulatory program.</p>
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	<p>Wastewater works operator. Why place them in the same category? Was this a last minute attempt to get regulations out for comment?</p> <ul style="list-style-type: none"> <li>• The goal is to transfer the existing Department of Health regulatory program for onsite soil evaluators to the DPOR and to establish a new regulatory program for onsite sewage system installers and operators with a minimum adverse impact on commerce. Additionally, the goal includes assuring that competent professionals are available to the public in need of onsite sewage system products and services. The environment benefits by having onsite sewage systems planned, installed, and operated by competent individuals who can best guide the consuming public in managing wastewater so as to avoid adverse impact. The public will be readily able to identify and access the services of competent individuals through a regulatory program that does not currently exist.</li> </ul> <p>Based on the proposed regulations these regulations will have a negative impact on commerce. The Health Department already has a program in place that is working well on the local levels. It has been in place for many decades. It has been a positive impact to commerce of the onsite sewage industry in the State. Just look at the number of onsite sewage disposal system that exist and function satisfactorily in the Commonwealth.</p> <p>These regulations are going to require small businesses (contractors/installers) already licensed under DPOR regulations (Class A, Class B and Class C) to obtain a new license to install onsite sewage disposal systems and operate onsite sewage disposal systems. Why? They know their business. The cost to the contractors to maintain the new license will push some out of business. Most have</p>	<p>The impact on VDH employees has been considered. The regulation has been amended to allow certain VDH employees to obtain an interim license.</p> <p>The commenter does not make clear how small businesses, etc. will be adversely</p>
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	<p>not even heard of the new regulation requirements. Is this the affect we want on our already fragile economy?</p> <p>The cost of maintenance and upkeep of onsite sewage disposal systems to home owners will escalate as cost to installers and service providers is passed to them. I find it hard to believe that the public will be readily able to identify and access the services of competent individuals through a regulatory program that does not currently exist as mentioned in the register.</p> <p>Impact to current Virginia Department of Health Employees (VDH) is substantial. Did anyone evaluate this impact? There are 260 VDH Environmental Health Specialist working in the onsite sewage system program. Of those only 50 are currently VDH approved AOSE's. Why is that? Because in order to function as a VDH employee you were not required to be an AOSE. Since the beginning of the program many VDH employees let their AOSE designation expire because of the cost and available training opportunities. There are 150 of these employees who could qualify as VDH AOSE's in order to get the interim designation required by the DPOR licensure.</p> <p>A striking fact is there are approximately 60 VDH Environmental Health staff that will not qualify. These employees were hired to work in the onsite sewage system program in good faith. They have all been trained by VDH staff to work in the onsite sewage disposal program. It is not their fault.</p> <p>Some options that have been discussed by VDH's central office OEHS is to train as many as possible of the VDH Environmental Health professional to qualifying as a VDH AOSE prior to July 1, 2009. A quick fix that will be very costly to all localities. I don't think the regulations were intended to have this negative impact. This is a last minute attempt to get around the regulations. This training is going to cost each locality a large some of money based on salaries and paid</p>	<p>impacted.</p> <p>Again, the Board is mandated to implement the regulatory program.</p>
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trainers. The Acts of the Assembly were passed and signed by the governor almost 2 years ago and we are just getting around to training existing VDH staff.

Today, VDH is cutting programs to meet strict budget requirements. These proposed regulations need to be postponed or put aside until a viable transition plan is in place for all stake holders. There needs to be a committee of all stake holders who know the onsite sewage disposal program to insure affective regulations are in place that will not adversely impact so many people (citizens, small businesses, developers, home builders AOSE's, CPSS's and VDH employees).

In the register the Department of Planning and Budget determine that the proposed regulations will have a disadvantage of higher cost for sewage disposal and service providers without voicing a strong concern to minimizing adverse impact on all those people affected by the proposed regulations. It seems logical to look at this impact further.

- Public Participation: In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the board/agency is seeking information on impacts to small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (i) projected reporting, recordkeeping, and other administrative costs; (ii) probable effect of the regulation on affected small businesses; and (iii) description of less intrusive or less costly alternative methods of achieving the purpose of the regulation.

We have not seen anywhere that the board/agency has reached out to small businesses for impacts. Most of the small businesses (installers, maintenance contractors and pumpout contractors) in

	<p>this region have not heard or seen the proposed regulations.</p> <ul style="list-style-type: none"> <li>In closing I want to state all the comments located on the Virginia Regulator Town Hall Web page by AOSEs, Engineers, VDH employees and others are valid. Please note that the majority are negative comments directed towards the proposed regulations. Please read all the comments as positive one way or the other from all of those most impacted. The numbers are not small. Changes to the regulations are necessary to protect everyone.</li> </ul>	
<p>Michael Jones</p>	<p>Recommends the Board develop a memorandum of understanding with the APELSCIDLA Board to help regulants of this Board better understand the exempted areas of engineering and surveying practice. Operators, contractors, and OSEs should be allowed to practice other professions provided they comply with the exemptions of § 54.1-401. The determinations of whether the work is incidental to a project is a question of fact to be determined in each case by the appropriate Board – since both this Board and the APELSCIDLA Board regulate overlapping work, it is imperative that both Boards work together to provide adequate guidance to all regulants. The Board should include the following language in its regulations:</p> <p>A. The professional shall undertake to perform professional assignments only when qualified by education or experience, or both, and licensed or certified in the profession involved. Licensed professionals may perform assignments related to engineering, contracting, or surveying provided they do not hold themselves out as certified in these professions unless they are so certified by this board or the APELSCIDLA Board. The professional may accept an assignment requiring education or experience outside of the field of the professional's competence, but only to the extent that</p>	<p>The Executive Director for the WWWOOSSP Board works closely with the Executive Director of the APELSCIDLA to assure mutual understanding. All regulants are required to comply with the law and regulations governing their practice. Failure to do so may result in disciplinary action.</p> <p>The Board's disciplinary standards require all regulants to perform only work that they are competent to perform. Any violations of another Board's regulations will be referred to that Board.</p>

	<p>services are restricted to those phases of the project in which the professional is qualified. All other phases of such project shall be the responsibility of licensed or certified associates, consultants or employees.</p> <p>B. A professional shall not misrepresent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with work for which he is claiming credit.</p> <p>C. The professional shall adhere to the minimum standards and requirements pertaining to the practice of his own profession, as well as other professions if incidental work is performed.</p> <p>Notwithstanding other provisions of the Code, an OSE shall not be required to be licensed or registered to practice when bidding upon or negotiating design-build or design-build-operate contracts or performing engineering or land surveying services under a design-build or design-build-operate contract. The architectural, engineering or land surveying services offered or rendered in connection with such contracts shall only be rendered by an OSE or as otherwise allowed by the APELSCIDLA Board.</p> <p>The APELSCIDLA Board does not prohibit the use of design-build services and this Board should follow accordingly. Hence, the board's regulations should allow for design, build, and operate. The regulations should include the following: Notwithstanding other provisions of the Code, an OSE shall not be required to be licensed or certified to engage in, or offer to engage in, contracting work or operate as an owner-developer in the Commonwealth in accordance with this chapter when bidding upon or negotiating design-build or design-build-operate contracts or performing services other than construction services under a design-build or design-build-operate contract. However, the construction services offered or rendered in connection with such contracts shall only be rendered by a contractor licensed or certified in accordance with this</p>	<p>Comments concerning the APELSCIDLA Board must be addressed to that board.</p>
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	chapter.	
Adam Herman	<p>The CPSS Board does an effective job of qualifying soil professionals that are adequately training in identifying and describing soils. By requiring a prospective OSE to first become a CPS then this new DPOR license can focus on qualifying individuals on drainfield design and the Sewage Handling and Disposal Regulations. Recommends all existing AOSEs obtain an interim license. If an interim license is obtained you must take and pass the OSE exam before the end of the interim license period to become licensed. A CPSS with one year onsite experience can qualify to sit for the OSE exam and become licensed.</p> <p>Future OSEs would be required to be a CPSS with at least one year onsite experience. After the interim period to obtain a license (1) you must be a CPSS (2) you must have at least one year onsite experience (3) you must take and pass the OSE exam. Also recommends not having separate licenses to evaluate sites for conventional and alternative systems.</p>	<p>The functions of CPSS's do not include onsite sewage system design, making OSE practice different from CPSS practice.</p> <p>The Board sees no hazard that would be reduced by requiring OSE's to undergo the expense of becoming a CPSS.</p> <p>The statute mandates two classes of license.</p>
Jack Morgan	<p>Regulations should require a written contract that spells out the services being rendered and the warranties and guarantees being provided. The contract should prohibit people from trying to limit their liability. The rules should prohibit soil scientists and contractors from requiring an owner to sign a release agreement in order for services to be provided. More protection needs to be given to the home owner in the regulations.</p>	<p>The Board feels that the written contract requirements of the Board for Contractors regulations are adequate to protect the public.</p>
VDH Employee 2004	<p>After July 1, 2009, VDH employees will have no authority when a bare application is submitted for review, and they will not be allowed licensure unless they already have the AOSE certification from VDH. Clarification is required regarding COSE vs. AOSE – it states in section 74.C that issuance of an alternative license voids all previously issued conventional licenses, does this mean that an AOSE can do everything a COSE can do? The addition of a provision for existing VDH personnel who have passed the required VDH</p>	<p>The Board has amended its proposed regulations to allow interim licensure for certain VDH employees.</p>

	<p>training modules and exams must be added. This provision should not take into account the experience level of that EHS. The requirement to submit 36 examples of previous work for OSEs with 12 of them being alternative designs is unreasonable.</p>	
<p>VDH Employee 1989</p>	<p>Keep CPEs the same, simplify and clarify. Continuing Professional Education – Does public protection include protection of public health? Does it include protecting groundwater and surface water? Does it include public safety? Contact hours should be equal from conventional systems to alternative systems. Section 109, #5, requires 10 contact hours – since a contact hour is defined as 50 minutes – this equates to 500 minutes or 8.3333333 hours – this is difficult to obtain. Alternative design and waterworks operators must receive 20 contact hours which equates to 16.6666666 hours. Change the meaning of contact hour to equal 60 minutes of training. The proposed regulations should outline a procedure for dispute resolution since not renewing a license because of acceptable documentation could greatly impact the regulant’s ability to earn a living. The regulations should allow regulants to renew their license temporarily until such a dispute is resolved. The Board should include in its regulations a process or variance from the renewal requirements for extreme cases. The Board should spell out in the regulations that training from community colleges, VDH, VOWRA, NOWRA, VEHA, NEHA, etc would be deemed to comply with the requirement.</p>	<p>CPE courses do not require prior Board approval. Courses must be drawn from the content areas covered by the Board’s exam.</p> <p>Compliance with the CPE requirement is handled through a random audit. Licensees may renew without submitting their CPE certificates.</p>
<p>David Hall</p>	<p>The job of the soil evaluator should be placed under the direction of the CPSS Board. Requests the regulations include the terms soil, soil evaluation, and the practice of soil evaluation as a public health sanitarian. Requests that the definition of onsite soil evaluator, conventional and alternative, be expanded to include the design, inspection and certification of onsite sewer systems as well as certification of sites for placement of onsite sewer systems. Requests a requirement that all alternative onsite soil evaluators also possess or meet the qualifications for certification as a CPSS.</p>	<p>The Board has no authority to place the regulation of OSE’s under the Board for Professional Soil Scientists and Wetland Professionals and sees no public protection need to require OSE’s to become CPSS’s.</p> <p>The OSE will be allowed to design systems.</p> <p>CPE subject matter must be drawn from the Board’s exam content areas.</p> <p>The interim license provision has been amended to allow certain VDH employees to qualify for an interim license and to allow VDH AOSE’s to qualify for a license without passing</p>

	<p>Requests that at least half of the CEU hours required for onsite soil evaluators be in a soil science related field such as field characterization, soil genesis and geomorphology, soil hydrology and hydrogeology, soil taxonomy, soil chemistry, soil mapping, and related subjects. Requests that the interim period be eliminated and that the Board be prepared to accept applicants before the effective date of the regulations and requests that all applicants who possess a valid certification as an APSE or CPSS on the effective date of the regulations be licensed as an alternative onsite soil evaluator. Requests that VDH employees be exempt from the requirements of this regulation for conventional onsite soil evaluator as long as they are employed by VDH performing the duties in relation to their employment. Requests that VDH employees not be allowed to hold a license as a conventional or alternative onsite soil evaluator. Requests that onsite soil evaluators, conventional or alternative, be prohibited from holding a license as an installer of onsite systems. Requests that onsite soil evaluators, conventional or alternative, be prohibited from serving as a representative of, or distributor of, products. Requests that compensation for consideration of proprietary products in work output be expressly prohibited. Requests that any disciplinary action arising under these regulations founded in a technical or interpretive point be adjudicated in consultation with the Board for Professional Soil Scientists and Wetland Professionals.</p>	<p>the Board's exam.</p> <p>It is unclear how the suggested prohibitions affect the public protection.</p> <p>Disciplinary action for OSE's will be handled by the Board and the Board for Professional Soil Scientists and Wetland Professionals will be notified of any CPSS violations.</p>
<p>VAPSS/ VAAOSE</p>	<p>The proposed regulations define licensure and regulate "Onsite Soil Evaluators" as a portion of the regulations. While neither VAPSS nor VAAOSE support the Onsite Soil Evaluators (OSE) being regulated by the Board of Waterworks and Wastewater Works, we understand that the law passed in 2007 requires this transfer.</p> <p>VAPSS and VAAOSE read the proposed OSE regulations as exclusively pertaining to the design components of an onsite wastewater disposal system and do not address components of "soil evaluation".</p>	<p>The proposed OSE regulations pertain to both soil evaluation and system design. The comment does not articulate how adding "inspection" and "certification" will benefit the public.</p>

	<p>Under VDH the role of the existing AOSE is much broader than the definitions given in the proposed regulations. In order to clarify the duties and responsibilities of an OSE we request that the definitions of OSE be expanded to include design, inspection, and certification of on-site wastewater disposal systems.</p> <p>VAPSS and VAAOSE request that the proposed OSE be limited to the design, inspection and certification of onsite wastewater disposal systems, and not the soil evaluations. This position is supported by the fact that there is no difference in soil evaluations for conventional versus alternative systems. Our Associations propose that all soils and site evaluations for the purpose of onsite wastewater disposal systems be conducted by a Certified Professional Soil Scientist (CPSS) who is governed under the existing Board of Professional Soil Scientists (PSS). The Board of PSS already defines qualifications for certification, examination and experience as well as standards for the practice of soil evaluation, we recommend an amendment that DPOR defer to PSS Board and accept these standards and qualifications already established for any professional conducting soil and site evaluations. Since the existing code for the BWWW does not address or define soil evaluations, we believe that there is flexibility for the BWWW to allow our aforementioned proposal.</p> <p>Neither VAPSS nor VAAOSE agree with documentation and testing requirements for current CPSSs and AOSEs as set forth in the proposed regulations. As CPSSs and/or AOSEs, individuals were already required to document their experience and pass an exam to get their respective credentials from either DPOR or VDH. These individuals should not be required to become "interim" evaluators to be tested again. Instead, VAPSS believes these individuals have demonstrated their education, experience and knowledge previously and should be grandfathered as a licensed OSE. In addition, we believe that due to current AOSEs experience and knowledge in the field of soils evaluations</p>	<p>Amendments have been made to clarify that both alternative and conventional OSE's are authorized to evaluate soils for conventional and alternative onsite sewage systems.</p> <p>The Board is mandated to regulate onsite soil evaluators and has no authority to turn regulations over to another board.</p> <p>An amendment has been made to allow VDH AOSEs to qualify for an alternative onsite soil evaluator license without further examination. CPSS may qualify to sit for the OSE examination after obtaining system design experience. The examination will test for both soils competency as it applies to onsite sewage systems and for system design competency.</p> <p>The Board has no authority to grandfather current AOSEs as CPSSs. VDH AOSEs may qualify for an alternative onsite soil evaluator license without a further examination.</p> <p>The Board's regulations do not affect a CPSSs ability to evaluate soils for any reason. CPSSs are not authorized to design onsite sewage systems until properly licensed as an OSE or a PE.</p> <p>The Board sees no public protection value to requiring OSEs to possess a CPSS certification.</p>
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	<p>for onsite wastewater disposal systems that all current AOSEs be grandfathered as an OSE and CPSS. We do believe and support the requirement for continuing education requirements, provided it is readily available throughout the state and not overly expensive and that at least half the credits required be in soil science.</p> <p>VAPSS and VAAOSE request an amendment that CPSSs and AOSEs currently certified under either DPOR or VDH, may continue to prepare site and soil evaluations for onsite wastewater disposal systems and submit reports to VDH as licensed professionals as long as the system design has been evaluated or prepared by an OSE or a PE. This option is currently not evaluated or included in the regulations.</p> <p>VAPSS and VAAOSE object to regulations that mandate Soil Scientists, who perform soil evaluations in the onsite industry, to pass an exam that also includes engineering design. In the proposed interim period, anyone person doing soil and site evaluations must be a current AOSE or CPSS. We recommend an amendment that after the interim period, persons wishing to do both soil and site evaluations and the design on-site waste disposal will have to possess a certification as a CPSS and an OSE.</p> <p>In a later comment VAPSS officially withdrew this position statement as it was posted in err.</p> <p>VAPSS provided an overview of a meeting held with DPOR and Delegate Nutter at the GA Building. § 54.1-230 was reviewed; 18VAC160-20 was also discussed. VAPSS stated they believe that the soils characterization component should be conducted by a CPSS under the existing DPOR regulations. VAPSS stated they believe this can happen under D (f) of the <i>Code of Virginia</i>. VAPSS believes that taxpayers' money can be saved by not duplicating a Board within DPOR.</p>	<p>The continuing education standards allow maximum flexibility and require that the subject matter be limited to the exam content areas.</p> <p>The Board does not understand how requiring both a CPSS and an OSE to evaluate soils and design a system will do anything other than increase the costs to the client and the regulant.</p>
<p>Bob Marshall</p>	<p>Does the Board's proposed licensure structure accommodate the stakeholder occupations of health sciences, formal</p>	<p>The Board has made a number of amendments to assure a smooth transition, including allowing current VDH AOSE's to</p>

	<p>sciences, and natural sciences? There is a lot of fear that July 1, 2009, will require that many in the professional currently stop doing this type of work. States that people who are limited to a specific region – those who only have an opportunity to design conventional systems vs. alternative systems – will not be able to provide the required 12 of 36 work submissions.</p> <p>Comments that his suggested amendments will facilitate continuity of onsite services and will allow for the creation of a future Class A Onsite Soil Evaluator designation that would allow for expanding the design privileges of qualified individuals beyond the current exemptions to the practice of engineering.</p> <p>Suggests the following definition amendments:</p> <ol style="list-style-type: none"> <li>1. Delete the word “alternative” from the definitions of alternative onsite sewage system installer, alternative onsite sewage system operator and alternative onsite soil evaluator.</li> <li>2. Delete the definition of alternative onsite sewage system, conventional onsite sewage system, conventional onsite sewage system installer, and conventional onsite sewage system operator.</li> <li>3. Amend the definition of “contact” to mean 60 minutes rather than the current 50 minutes.</li> <li>4. Amend “category” to group the new categories of licensure under the term “onsite treatment works” with the license names following in parentheses.</li> <li>5. Amend “classification” to include onsite treatment works licenses and dividing those licenses into classes where class A is the highest classification.</li> <li>6. Amend “classified facility” to add “onsite treatment works” to “waterworks” as a facility that must be issued a classification by the Virginia Department of Health.</li> <li>7. Delete from “direct supervisor” the two occurrences of the word</li> </ol>	<p>qualify for an alternative OSE license without having to pass the examination.</p> <p>The function of the Class A OSE is not clear and does not address any existing hazard.</p> <p>The Board has amended a number of definitions in response to comment.</p> <p>The Board has amended language to make clear that an alternative licensee can do everything that a conventional licensee may</p>
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	<p>“unlicensed.”</p> <ol style="list-style-type: none"> <li>8. Amend “interim license” to add “authorized onsite soil evaluator” and “certified professional soil scientist” as professions that can qualify for an interim license.</li> <li>9. Rephrase the second sentence in “maintenance” to add the word “periodic” as the first word in the sentence and to add the words “pre-scheduled interval.”</li> <li>10. Amend “onsite sewage system” to delete the reference to “conventional onsite sewage system” and “alternative onsite sewage system” and adding words describing the onsite sewage system as having one or more septic tanks with gravity, pumped, or siphoned conveyance to a distributed subsurface drain field.</li> <li>11. Amend “operate” to add the words “or the standards of performance at an onsite treatment works.”</li> <li>12. Amend “operator-in-training” to add “onsite treatment works.”</li> <li>13. Amend “owner” to add “onsite treatment works.”</li> <li>14. Amend “responsible charge” to include “onsite treatment works.”</li> <li>15. Amend “treatment works” to “onsite treatment works,” which excludes waterworks and wastewater works from the meaning of the definition.</li> </ol> <p>Suggests amendments to 18VAC160-20-74 A, C, and D to remove the sentence “No licensee shall hold two licenses of different classifications in the same category,” and the words “conventional” and “alternative.”</p>	<p>do.</p>
<p>Fed UP</p>	<p>Effective July 1, 2009, onsite system designers (OSDs) should be licensed under the waterworks and waste waterworks Board and allow for a three-year interim license for current AOSEs; allow for a three-year licensure exemption for regulators. DPOR should adopt emergency regulations for onsite soil evaluators under the CPSS Board. The regulations should provide for an automatic three-year interim license for</p>	<p>The Board has no authority to adopt emergency regulations under the CPSS Board.</p>

	<p>those who are currently certified by VDH as AOSEs; interim license process for new onsite soil evaluators (expires June 30, 2012; three-year licensure exemption for regulators (expires June 30, 2012). Before July 1, 2012, adopt permanent regulations under the CPSS Board – currently certified CPSSs will become licensed CPSSs, interim OSEs will become licensed CPSSs In-Training. An individual can be both an OSD and an OSE.</p>	
<p>Lance Gregory</p>	<p>18VAC160-20-10 – clarification of point source discharge – There is no definition of a point source discharge in the current regulations as proposed. Individual direct discharge systems are approved for use in Virginia. A direct discharge system is a point source discharge and if this is the case then no septic installer, alternative or conventional, will be allowed to install a direct discharge under these regulations. There needs to be clarification on this point to show who will be allowed to install direct discharge systems.</p> <p>The current definitions of alternative onsite sewage system installer and alternative onsite soil evaluator are the exact same – this has to be in error. Recommends the definition of an alternative onsite soil evaluator be “an individual licensed by the Board to evaluate soils and soil properties in relationship to the effects of the properties on the use and management of these soils as the locations for alternative and conventional onsite sewage systems”.</p> <p>18VAC160-20-74.C – If someone is capable of designing, installing, or maintaining an alternative system they are certainly capable of doing the same for a conventional system. AOSEs work with both systems and allowing them to only work with one type of system would be cutting their work in half. This would create a serious economic impact to their business. Suggests the following definition changes:</p> <p>“Alternative onsite sewage system installer” means an individual licensed by the board to construct, install, and repair conventional onsite sewage systems, alternative onsite sewage systems, and</p>	<p>The Board is mandated to regulate individuals dealing with sewage systems that do not cause a point source discharge.</p> <p>The Board has amended a number of definitions in response to comment.</p> <p>The regulation language has been amended to make clear that alternative licensees may perform all of the functions that a conventional licensee may perform.</p>

	<p>alternative discharging sewage treatment systems. (The definition of an alternative discharging sewage treatment system will also need to be added.)</p> <p>“Alternative onsite sewage system operator” means an individual licensed by the board to (i) place into or take out of service a unit process or unit processes; or (ii) make or cause adjustments in the operation of a unit process at a conventional onsite sewage system and/or alternative onsite sewage system; and (iii) determine whether a component or device is functional.</p> <p>“Alternative onsite soil evaluator” means an individual licensed by the Board to evaluate soils and soil properties in relation to the effects of these properties on the use and management of these soils as the locations for conventional onsite sewage systems and/or alternative onsite sewage system.</p> <p>18VAC160-20-82.D – the effective date of this chapter is July 1, 2009. All AOSE certification from VDH are valid only through June 30, 2009. The language in this chapter needs to be changed to accommodate the fact that all AOSE certification will become invalid on June 30, 2009, or the VDH needs to change the expiration date of all AOSE certification to July 1, 2009.</p>	<p>The language will be amended to reflect the June 30, 2009 date.</p>
<p>W. F. Sledjeski</p>	<p>General/ 54.1-2301 (H517), VAC 160-20-10,20, 32.1-163,</p> <p>In the real world there are four (4) onsite wastewater practitioners to be licensed: Onsite Soil Evaluators, System Designers, System Installers and System Operators.</p> <p>The proposed Installer and Operator regulatory requirements are relatively straightforward. The Onsite Soil Evaluator regulatory requirements are confusing. There is no clear understanding of System Designer, since it doesn't appear to exist except as embedded in Onsite Soil Evaluator.</p>	<p>The enabling statute does not authorize a system designer.</p> <p>System designs are to be performed by OSE's.</p> <p>The Board has no authority to transfer OSE regulations to the Board for Professional Soil Scientists and Wetland Professionals.</p>

	<p>Onsite Soil Evaluators (for all system designs) should be regulated by the Board for Soil Scientists and Wetland Professionals, which presently certifies these individuals. Licensing, as required, could be established by a legislative amendment. All necessary definitions and regulatory requirements are in place. There should be no distinction between conventional and alternative soil evaluators. This Board can address the distinction between types of onsite soil evaluators, as necessary. AOSE's absent CPSS credentials can qualify for (certification) licensing as in prior years.</p> <p>The Waterworks Board should regulate system designers. There is a rather substantial difference between an evaluator and a designer. The present proposed regulation is a carryover from the AOSE certification program and the historical health Department process for issuing construction permits and should not be retained as such. There should be no distinction between conventional and alternative system designers.</p> <p>Interim licensure of individuals....</p> <p>Interim licensing is not essential. There are an abundance of experienced evaluators, designers and installers in the Commonwealth. Individuals in private practice are subjected to continuous scrutiny by VDH for compliance with local and state code and regulations. VDH personnel receive training, examination and following considerable experience are subsequently authorized to conduct independent studies and issue permits. Interim licensure and subsequent examination to receive full licensure should not be required for these individuals that have previously qualified through examination, education, experience and training. A more realistic approach is to allow a two (2) year period for application as a licensed practitioner with examination being waived provided that person has a certification (ASOE, CPSS...) or license in his or her profession with minimum experience. Following that period the proposed licensure regulations including examination would be effective.</p>	<p>Separate classes of license are mandated by the 08 legislation.</p> <p>The Board has amended the proposed regulations to allow VDH AOSE's to qualify for an alternative OSE license without passing the Board's exam.</p> <p>The proposed regulations articulate the "program."</p> <p>The statute mandates in 54.1-2301.C of the <i>Code of Virginia</i> that the Board regulate all operators and installers.</p> <p>The language will be amended to make clear that OSE's are to perform system design.</p> <p>Please see 54.1-2301.D(e) of the <i>Code of Virginia</i> which mandates a separate class for OSE's designing only conventional systems.</p>
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	<p>Similar procedures were followed with the Board for Geologists and Board for Soil Scientists.</p> <p>54.1-2301 (H517)</p> <p>It is my understanding that a Board can only regulate that which is in the code. It is clear that the Board shall establish a "program" for licensing individuals as evaluators, installers and operators (1.D.). What is the " program"?</p> <p>It is clear that the Board shall also adopt regulations for the licensure of onsite evaluators and installers and operators of alternative systems. There is no reference to installers or operators of conventional systems, so how can the Board identify other types of installers and operators?</p> <p>Was the Board requested to adopt regulations for the licensure of system designers? Although the term onsite soil evaluator occurs three times in 54.1-2301 there is no definition in the proposed regulations except as "Alternative onsite soil evaluator" (18VAC160-20-10) which, hopefully, is a computer error, and "Conventional onsite soil evaluator" which is the same as LOSE (32.1-163) and makes no mention of system design.</p> <p>It is not clear how the amended code relates to any of the above regarding (e) the division of onsite soil evaluators into classes. Nowhere is it indicated that an onsite soil evaluator is a designer of onsite sewage systems. The proposed regulations define conventional onsite evaluator in terms of site evaluation only. By definition (32-1-163, effective July 1, 2009 and in the proposed regulations) an AOSE or an LOSE is a person authorized to evaluate soils and soil properties... There is no mention of design in these definitions.</p> <p>18VAC 160-20-10 Definitions</p> <p>Delete Alternative and conventional onsite soil evaluators.</p> <p>Add</p>	<p>Limiting OSE's to individuals that are CPSS and creating a designer license is not within the Board's authority and would increase consumer cost by requiring two professionals to complete tasks currently performed by one professional.</p> <p>An individual holding an alternative license may perform any task that a conventional licensee may perform.</p> <p>When necessary, individuals learned in soils or other subject matter fields will be consulted to assure fairness.</p> <p>Amendments are being made to allow certain VDH employees to qualify for an interim license and for VDH AOSE's to qualify for an</p>
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	<p>“Onsite soil evaluator” means an individual currently certified by the Board for Professional Soil Scientists and Wetland Professionals or currently certified by the Virginia Department of Health as an AOSE to evaluate soils and soil properties in relationship to the effects of these properties on the use and management of these soils for onsite sewage systems.</p> <p>Add</p> <p>“Onsite sewage system designer” means an individual currently certified by the Virginia Department of Health as an AOSE or an individual licensed by the Board to design onsite sewage disposal systems based on soil evaluations prepared by an “onsite soil evaluator” which are not considered an engineering practice.</p> <p>Septic tank and conventional onsite sewage systems are not defined. Alternative onsite sewage system is very poorly defined.</p> <p>Is a filter considered alternative treatment? Is inclusion of an aerobic system in a septic tank providing secondary treatment considered alternative treatment even though the effluent is discharged to gravity distributed drain field? Can a conventional system be time-dosed? Where is the line drawn between alternative and conventional? Could create some legal issues. Does the level of pretreatment or does the soil absorption, sorry, receiving medium, system dictate the classification?</p> <p>Part II License requirements B.</p> <p>Licensee shall not hold both licenses? What is the justification?</p> <p>The Code does not require an examination. The Board has exercised its authority to require an examination as in (f) other criteria.</p> <p>The majority of violations and complaints to the Board will be based on soil interpretations. The Board has one CPSS capable of conducting an IFF. It is my understanding that a summary will be</p>	<p>alternative OSE license without passing the Board’s exam.</p> <p>The statute compels a class of onsite soil evaluator limited to performing conventional system designs.</p>
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	<p>presented to the Board for final action. The Board does not have any other professionals qualified to judge the summary document, which does not approach fairness.</p> <p>All AOSE certifications expire on June 30, 2009. The new Code becomes effective on July 1, 2009. Legally no one will be an AOSE on this date. No AOSE will qualify for an interim OSE license (see definition of "Authorized onsite sol evaluator").</p> <p>An individual licensed only as a conventional onsite evaluator is not economically feasible. What if the site conditions require an "alternative system" the licensee must defer to an alternative evaluator? This presents an economic hardship to the client who likely is a citizen of the Commonwealth.</p>	
<p>Robert B. Mayer</p>	<p>18VAC10-20-710 – this section in reference to engineers needs to be the same for those newly authorized designers of onsite systems.</p>	<p>There will be no newly authorized designers of onsite sewage systems. Design will be done by OSE's.</p>
<p>Joel S. Pinnix</p>	<p>Conventional vs. Alternative - The proposed regulations include regulations for Conventional Onsite Sewage System Operators and Installers. The enabling legislation HB 3134 (2007) included requirements for the Board to develop regulations related to installers and operators of alternative onsite sewage systems only. The regulations did not speak to conventional systems. Therefore, the proposed regulations may exceed their specific statutory authority. Additionally, being a part of the subcommittee hearings, it was clear to me that the legislature had no intention of regulating conventional systems under this statute. While 54.1-2301 C. is fairly broad, the following paragraph D. is very specific and speaks only to alternative systems.</p> <p>Homeowners – While not specifically included in the enabling legislation, it would seem reasonable to allow a licensing path for Homeowners to operate their own systems. Especially those that fall within the exemption of the practice of engineering (54.1-402.11) which are less than 1,000 gpd, may include simple pump</p>	<p>54.1 -2301.C of the <i>Code of Virginia</i> mandates regulation of installers and operators.</p> <p>It is not clear from the comment how homeowners could meet a standard less stringent and still protect the environment.</p> <p>SHDP has been removed and replaced with a reference to an SDS specialty license issued by the Board for Contractors.</p> <p>The language has been amended to require experience performing the duties of an</p>

	<p>systems, with gravity distribution.</p> <p>Interim Alternative Onsite Sewage System Installers – VDH does not issue SHDP's. VDH issues a Sewage Handling Permit to "pumper and haulers". VDH also issues Sewage Disposal System Construction Permits to owners. The inclusion of SHDP is confusing and without regulatory basis unless defined. My suggestion would be to issue an Interim Alternative Onsite Sewage Installer permit to any holder of a Sewage Disposal System (SDS) specialty license issued by the Board for Contractors.</p> <p>Interim Alternative Onsite Sewage System Operators – The requirement for an interim license requires 12-months of full-time experience as an operator. Since there is no current "Operator License" for onsite systems, this requirement is unclear. How does one prove 12-months experience as an operator when no such position exists? My suggestion would be to allow O&amp;M providers of demonstrated experience, Interim Installers, Alternative System Designers (ie. Licensed Onsite Soil Evaluators (LOSE) and Professional Engineers (PE)) to qualify for an interim operator's license.</p> <p>Alternative Onsite Sewage System Operator – the entry requirements for an operator require "full-time" experience. This requirement may preclude many qualified individuals who provide O&amp;M as one of many services. For instance, O&amp;M providers of demonstrated experience, installers, and Alternative System Designers may provide O&amp;M as well as other related services within the "Onsite Industry". My suggestion would be to include these individuals as qualified for licensure provided they complete an onsite sewage system operator course and pass a board-approved examination. Broadening the entry into this licensing category is especially important in rural Virginia where service providers work in many different aspects of the industry. Additionally, having a "full-time" specialty may not be economically viable in many rural areas, especially when this</p>	<p>operator.</p> <p>The Board believes that the standard is reasonable and minimal to assure competent practice.</p> <p>The definition has been amended.</p> <p>The term "interim licensure" had been added to the definition of "interim license".</p> <p>VDH regulations will continue to set standards for onsite sewage systems, which the Board's regulants must comply with or face disciplinary action. A separate section has been added governing conflicts of interest.</p> <p>The language has been amended to clarify that an alternative licensee may perform all the tasks which a conventional licensee may perform.</p>
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	<p>specialty never previously existed.</p> <p>Technicalities – The definition of Alternative Onsite Soil Evaluator is incorrect. AOSE’s do not construct, install or repair treatment works.</p> <p>“Interim License” under the definition section should be changed to “Interim Licensure”.</p> <p>Standards of Practice – The standards of practice for a licensed designer (LOSE’s) should be expanded to include the specific responsibilities of designers to the public. The current AOSE regulations, Part V, includes a thorough set of standards (in part based on current PE standards) which describe in detail the role and responsibility of the licensed designer to the public. Recommended that the Board adopt the standards of practice found in the Virginia Department of Health AOSE regulations. Specifically, the sections concerning responsibility to the public, public statements, conflicts of interest, solicitation of work, competency for assignments, and AOSE responsibility.</p> <p>Is it the Board's intention to preclude Alternative Evaluators, Operators and Installers from providing the same service on Conventional systems? 160-20-74C states that "No licensee shall hold a conventional and an alternative license simultaneously". Taking this requirement in combination with the definition of alternative which states "...a treatment works that is not conventional..." effectively precludes an Alternative Licensee from working on a Conventional system. Is this really the desired intent?</p>	
<p>Frazier Consultants</p>	<p>Evaluations and designs are two separate issues and should be treated that way. The criteria for a conventional and alternative onsite evaluator should have nothing to do with how many designs one has done. It should have everything to do with the evaluation process and the success of the systems installed.</p>	<p>The enabling statute makes clear that OSE’s are to perform evaluations and designs. The Board feels that VDH-approved designs are an appropriate indicator of competence.</p>
<p>Gregory Monnett</p>	<p>There needs to be a separation and definition of the components of an onsite wastewater system. There needs to be a</p>	<p>The enabling statute places soil evaluation and system design under OSE’s and provides no authority to allow the Board for Professional</p>

	<p>separation of the soil component to the CPSS Board that already exists at DPOR – leave the design component with the BWWW Board. According to § 54.1-2301 D (e) “the division of onsite soil evaluators into classes, one of which shall be restricted to the design of conventional onsite sewage systems; and (f) other criteria the Board deems necessary” – the Board can deem necessary that the CPSS Board oversee the evaluation of soils.</p>	<p>Soil Scientists and Wetland Professionals to regulate soil evaluation.</p>
<p>Tom W. Ashton</p>	<p>Recommends the inclusion of language similar to 18VAC10-20-710 – Conflicts of Interest.</p> <p>18VAC160-20-82 – Agree with these requirements.</p> <p>18VAC160-20-96 – Fundamentally agree with these requirements; however, concerned that the requirements may be difficult to meet at a later time.</p> <p>The current “conventional” vs. “alternative” designation in the proposed regulations relating to soil evaluators does not address the standard of practice, roles and responsibilities, as is currently conducted in Virginia.</p> <p>The class 1 test needs to ensure that the applicant has the skills and abilities to perform the function of soil evaluation, field designation/delineation of an area, preliminary design, and conventional system permit design. Class 1 licensees should be authorized to certify properties for all systems allowed in the regulation and policy, design conventional pump to gravity trench systems, and provide soil/site evaluations and delineations for AOSE/PE permits. This is the standard of practice as applied in Virginia.</p> <p>Soil evaluations of onsite wastewater soils sites for systems outside of the AOSE regs should be at minimum a Class 1 evaluator and a CPSS.</p>	<p>The Board has added a section dealing with conflicts of interest.</p> <p>Without specifics as to how these standards may be difficult to meet at a later time, the Board feels that it is inappropriate to make an amendment.</p> <p>It is not clear what standards the commenter is referring to or how the current proposed provisions create a hazard.</p> <p>The examination is being created by subject matter experts with the help of a psychometrician and is expected to test for the correct subject matter.</p> <p>It is not clear what is meant by “systems outside of the AOSE regulations”.</p>
<p>VDH Employee 2009</p>	<p>VDH authority to regulate Authorized Onsite Soil Evaluators (AOSEs) ends on June 30, 2009 and DPOR assumes control of regulating Licensed Onsite Soil Evaluators (OSEs) on July 1,</p>	<p>The language has been amended to recognize interim, conventional, and alternative installers to attest to an individual’s competence.</p>

	<p>2009. Under Title 32.1, VDH must accept site and soil evaluations from AOSEs, not OSEs. Since AOSE is not a regulant of DPOR and VDH does not regulate AOSEs, it would seem that "deemed approval" would no longer apply with submissions to VDH because AOSEs no longer exist, only OSEs. Nobody will be an Authorized Onsite Soil Evaluator on July 1, 2009; yet the proposed regulations require installers to submit three references from AOSEs as an option to qualify for a license. How is an installer supposed to find an AOSE after July 1, 2009 when everyone is an OSE?</p> <p>Examples of other substantial errors in definitions:</p> <p>1. An alternative onsite soil evaluator is somebody who can construct, install, and repair a treatment works - licensed contractors and licensed alternative installers were supposed to do that. If this definition remains effective, then an OSE can install an alternative sewage system but cannot evaluate soil or design a sewage system.</p> <p>Offers the following advice for a better definition: OSE means a person deemed qualified by DPOR to (i) evaluate , document, and report in accordance with accepted soil science principles, using the standard of care ordinarily expected for soil science, the site and soil properties for a proposed sewage system; (ii) consult, evaluate, plan, and design alternative, conventional, or alternative discharging sewage systems as defined in Title 32.1 of the Code of Virginia, which are not considered the practice of engineering as defined in Title 54.1 of the Code of Virginia, and (iii) to inspect alternative, conventional, and alternative discharging sewage systems. You can expand this definition to account for other comments to better define the practice of soil science and design not considered engineering.</p> <p>2. An alternative onsite sewage system installer is someone who cannot install conventional onsite sewage systems. Most contractors install both alternative and conventional onsite sewage systems.</p>	<p>The definition has been amended.</p> <p>Alternative discharging systems are not under the Board's authority.</p> <p>The language is being amended to make clear that alternative licensees can perform all functions that a conventional licensee may perform.</p> <p>The language is being amended to reflect June 30, 2009.</p> <p>The Board does not feel that reconvening is necessary.</p> <p>Section 84 does not address OSE's. Amendments are being made to section 82 to allow certain VDH employees to obtain an interim license and to allow VDH AOSE's to qualify for an alternative OSE license without passing the Board's exam.</p>
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	<p>So it would appear that DPOR would require a septic contractor to now hold three licenses: a) contractor license, b) alternative installer license, and c) conventional installer license. It seems odd that you need two different boards to regulate one type of practice (contractors board and this board).</p> <p>3. An AOSE is defined as somebody with that certification on the effective date of the proposed regulations. States that nobody will be an AOSE on the effective date of the proposed regulations because VDH authority ends at midnight on June 30, 2009.</p> <p>DPOR should give serious consideration to reconvening the board to re-write much of the regulation. If DPOR should decide to do this, then an interim process should be developed so that the public can enjoy the services of an OSE beginning July 1, 2009.</p> <p>Delete the concepts outlined in Section 84 of the proposed regulations. All persons who hold an Authorized Onsite Soil Evaluator (AOSE) certificate from the Board of Health passed a written and field test and had to have at least 4 years of experience. The Board of Health also required that all regulants pass approved VDH training courses or be registered as a CPSS. This Board of Health standard is much tougher than the standard proposed by DPOR, which will only require a written test and experience with as little as two-years.</p> <p>The licensing aspects are simply changing from one state agency to another one. The VDH regulations were more stringent than proposed by DPOR and the VDH regulations passed public scrutiny, the Board of Health's evaluation, and the Governor of Virginia. If there are bad actors in the VDH program, then DPOR should weed them out after they enter the program instead of trying to weed them out at the expense of making the vast majority of us who are doing good work to revalidate through a testing mechanism.</p> <p>Grandfather those who have already been</p>	<p>The Board's regulations must pass the same scrutiny.</p> <p>The Board has made amendments allowing VDH AOSEs to qualify for an alternative OSE license without passing the Board's examination.</p> <p>Alternative discharging systems are not under the Board's authority.</p> <p>The comment does not make clear how the requirement for designs creates a hazard or the specifics of "the routine expectations for all other professions...."</p> <p>The Board is adding conflict of interest language similar to that required by APELSCIDLA.</p> <p>The Board does not believe that written contracts are necessary and views the written contract requirement of the Board for Contractors to be sufficient.</p>
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	<p>tested and deemed qualified to design both conventional and alternative systems. Otherwise, these persons have to endure two testing procedures from two different state agencies. It is more reasonable to grandfather people and weed out the bad actors than to force everybody with the AOSE certificate to test two times.</p> <p>Recommends that Section 84 say the following:</p> <p>Any person who held a valid AOSE certificate by the Board of Health on June 30, 2009 shall be deemed qualified for the OSE license for conventional, alternative, and alternative discharging systems. Upon application for the license by any person who held a valid AOSE certificate from the Board of Health, the board shall grant the license for the AOSE certificate.</p> <p>Regulations should follow the routine expectations for all other professions that DPOR licenses by not requiring 36 pieces of prior work. Regulations unfairly penalize employees of VDH – DPOR should remove the expectation that a person asking for the AOSE license must submit designs approved by VDH.</p> <p>The Board should have the same kind of requirements as the APELSCIDLA Board since the activity mimics what engineers and surveyors do. The regulations should require OSEs, installers, and operators to fully disclose any material information that may affect the advice given. Alliances between OSEs, installers, and operators should be required to be disclosed before any work is permitted. Suggested adopting the provisions of the APELSCIDLA Board regulation provisions concerning responsibility to the public, public statements, conflicts of interest, soliciting work or employment, competency for assignments, professional responsibility, and good standing in other jurisdictions.</p> <p>The proposed regulations should require written contract for installers, operators, and onsite soil evaluators. Suggests a</p>	<p>Regulations must be in effect on July 1, 2009 in order to have continuity of an important government function.</p> <p>Further, enactment clause 4 of HB 3134 (2007) and SB 1270 (2007) clearly require regulations to be in effect on July 1, 2009.</p> <p>Two levels of OSE licensure are required by HB 517 (2008).</p> <p>Wastewater works operators run facilities permitted by DEQ. An onsite sewage system is not a wastewater works.</p> <p>Definitions not used will be deleted.</p> <p>It is not clear from the comment how homeowners could meet a standard less stringent and still protect the environment.</p> <p>Owners may qualify for and become licenses operators if they desire. It is probably more cost efficient for a homeowner to contract with a licensed operator to perform all operation functions.</p>
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	<p>written contract should include the prohibited acts provisions found in the Board for Contractors regulation 18AVC50-72-260.</p> <p>DPOR states that it must adopt regulations by July 1, 2009; whereas the law does not have an enactment clause not does it require that the Board have a set of regulations on July 1, 2009. The economic impact analysis states that installers have been previously unregulated – this is incorrect as they must have a contractor license and are bound by a set of regulations under the contractors Board. DPOR stated in the regulatory flexibility analysis that VDH does not differentiate between onsite soil evaluators for conventional and alternative systems – currently all AOSE certified through VDH are authorized to perform soil evaluations for conventional and alternative systems. The Board of health concluded that only one level of licensure was adequate – why does DPOR need to require two levels of licensure? Would like more information on how the conclusion was made as to what the substantial consideration was that was given to the inevitable impact of a new legislative mandate on those directly affected. There is insufficient information contained in the economic impact analysis.</p> <p>"operating staff" means individuals employed or appointed by an owner to work at a waterworks or wastewater works.</p> <p>By definition, if a homeowner appointed himself to work as his own wastewater works operator, then he would be considered the "operating staff".</p> <p>The proposed regulations define the term, "operating staff," but never use it elsewhere. What value does this definition serve if it is not used anywhere else in the regulations?</p> <p>Recommends that the regulations expand the concepts of "operating staff" and "operator-in-training" so owners can "operate" their own alternative sewage system. Allow "operating staff" or "operator-in-training" to have an interim or</p>	
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	<p>provisional license to operate their own alternative sewage system. Owners of Virginia would have the option to save themselves a lot of money by operating their own alternative sewage system instead of having to pay someone else \$50 to \$150 per month. This would be a huge benefit for owners who want to operate their own system.</p> <p>In the proposed regulations, "operate" means any act of an individual that may impact on the finished water quality at a waterworks or the plant effluent at a wastewater works.</p> <p>States that this definition would mean that every homeowner in Virginia with an alternative onsite sewage system would need to have a valid operator license since any act of the owner may impact the finished water quality of the plant effluent at a wastewater works. Owners of alternative sewage systems should be allowed to operate their own alternative system as the rules seem to contemplate.</p> <p>§ 54.1-2302 requires everyone to have a license who performs the duties of an onsite soil evaluator, or install or operate an alternative onsite sewage system, without a valid license.</p>	
<p>VDH Employee 1994</p>	<p>Experience &amp; Education - Recommends the Board include provisions of the APELSCIDLA regulations concerning experience, education, licensure by comity, expiration and renewal, reinstatement, competency for assignments, professional responsibility, good standing in other jurisdictions and sanctions.</p>	<p>The Board has included appropriate provisions for those elements.</p>
<p>VDH Employee 1993</p>	<p>The Board should require regulants to create as-built drawings with defined measurements when they inspect or install sewage systems and then maintain these documents in their files.</p> <p>Recommends the proposed regulations include a reference to the NEHA certification and state that this certification meets the required experience for the sewage system installer license. Also recommends that if an installer meets the NEHA certification standard that any test</p>	<p>Such a requirement may be in conflict with future or current VDH regulations.</p> <p>It is not clear how NEHA certification meets the experience standard and justifies waiving the exam.</p> <p>It is not clear how the commenter would have the Board articulate his suggestion in the</p>

	<p>be waived to encourage installers to get the NEHA certification.</p> <p>Proposed that Section 96 is too complicated with improper requirements - recommends that DPOR simplify the entry requirements in Section 96. There are five basic KSAs (knowledge, skills, and abilities) that an OSE must have:</p> <ol style="list-style-type: none"> <li>1. Understanding of how to properly evaluate and describe site and soil features.</li> <li>2. Understanding of how to properly design onsite sewage systems.</li> <li>3. Understanding of how to read and follow regulations for onsite sewage systems and water supplies.</li> <li>4. Understanding of how to properly locate a water supply in accordance with applicable regulations.</li> <li>5. Understanding of how to properly inspect a water supply and sewage system.</li> </ol> <p>The definition section needs to reflect these basic skills (and the differences in skill) when defining an Onsite Soil Evaluator (both alternative and conventional). The difference in KSAs between a Conventional and Alternative system revolves around additional skill and understanding with respect to low pressure distribution, drip dispersal, treatment devices, nutrient removal, and treatment. Hence, the definitions should explain this.</p> <p>Section 96 seems to explore that these basic understandings and these differences in skill can be found by having different years of experience and education. For the conventional evaluator, DPOR proposes the following series:</p> <ol style="list-style-type: none"> <li>1. CPSS with one year of experience.</li> <li>2. 4-year science degree with two years of experience evaluating soil under the supervision of a COSE.</li> <li>3. 2-year science degree with three years of experience evaluating soil under the</li> </ol>	<p>regulations or how the current language is complicated.</p> <p>The Board feels that subject matter of this nature belongs in VDH regulations rather than in the licensing regulations.</p> <p>The language has been amended to include system design.</p> <p>Section 97 covers installers and section 98 covers operators. The Board has made amendments to recognize competency references as qualifying.</p>
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	<p>supervision of a COSE.</p> <p>4. No degree and eight years of experience evaluating soil under the supervision of a COSE</p> <p>Also noted the following problems with the above proposal.</p> <p>1. DPOR only asks for soil evaluation experience. If that's all that is needed one only needs to be a CPSS. Otherwise, change the experience requirement to the five basic skill sets noted above and ask for the experience that differentiates between alternative and conventional technology.</p> <p>2. Most people do not enter this type of work by working for a COSE. They work for engineering firms, state agencies, or go into practice for themselves. Instead of asking for work under a COSE, DPOR should just ask for three references from persons with the Alternative or Conventional license, a CPSS, or a PE. If a person cannot produce three references to show that they have had the required experience, then they probably do not have the required experience. Next Section 98 of the proposed regulation seems to change the experience requirements than stated in Section 96. In Section 98, it talks about having a GED and one year of experience without a GED.</p> <p>Recommends that Section 96 is changed for the Conventional requirement by adding the requirements in a table format. The headers of the table would have "Experience" , "References", and Education.</p> <p>Under the experience category, the person have the following:</p> <p>1. CPSS with two years full time experience designing onsite sewage systems, sitting water supplies, and inspecting treatment works and water supplies.</p> <p>2. Four year related science degree with four years full time experience performing site and soil evaluations using designing onsite sewage systems, sitting water</p>	<p>The Board believes that the current format is appropriate.</p> <p>It is not clear how this suggestion addresses a hazard or how the proposed standard is inadequate.</p> <p>The Board has no authority over the CPSS examination.</p> <p>Again, it is not clear how this suggestion addresses a hazard or how the proposed standard is inadequate.</p> <p>It is not clear how this suggestion addresses a hazard or how the proposed standard is inadequate.</p> <p>The Board has amended the language to allow experience under an interim OSE.</p>
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	<p>supplies, and inspecting treatment works and water supplies. As I understand it, you must have 4 year degree and 4 years of experience to sit for the CPSS exam so this would make the CPSS equivalent to four years of site and soil evaluation experience. I'm proposing an equivalent expectation for both the CPSS and a 4-year related degree.</p> <p>3. Non-related four year degree or 2-year related science degree with six years full time experience performing site and soil evaluations using designing onsite sewage systems, siting water supplies, and inspecting treatment works and water supplies.</p> <p>4. No degree and 8 years full time experience performing site and soil evaluations using designing onsite sewage systems, sitting water supplies, and inspecting treatment works and water supplies.</p> <p>Require that everyone provide 3 references from a CPSS, PE, or OSE to demonstrate that they have this experience. Do not ask people to submit confirmation of working under the direct supervision of someone else holding a COSE license. They could just as reasonably gather the experience working under a CPSS, a PE, or an Alternative Onsite Soil Evaluator in an engineering firm.</p>	
<p>VDH Employee</p>	<p>States that DPOR will allow application for interim licensure as late as six months after the regulations are adopted.</p> <p>Recommends the Board include language concerning renewal, reinstatement, continuing education, audit of continuing education, exemptions and waivers of continuing education, and sanctions.</p> <p>Recommends that VDH employees are properly compensated as they will be required by Code to hold a license to perform their duties. Gave specific examples of levels and what pay grades should be expected for those levels.</p> <p>Recommends the following definitions be</p>	<p>Six months after the regulation effective date and this applies only to those applying for interim OSE.</p> <p>These provisions are in the Board's regulations as proposed.</p> <p>The Board has no authority to increase VDH pay scales.</p> <p>The Board feels that its amendments to the definitions are appropriate.</p>

	<p>changed:</p> <p>"classification" means the divisions of each category of waterworks and wastewater works operators licenses where Class "I" represents the highest classification; the divisions of each category for installer and onsite soil evaluator where Class "alternative" represents the highest classification.</p> <p>"classified facility" means a waterworks, wastewater works, or treatment works that has been granted a classification by the Virginia Department of Health or the Department of Environmental Quality. I can foresee situations where DEQ and VDH issue joint permits for reuse and recycling systems.</p> <p>"contact hour" means 60 minutes of participation in a structured training activity. I do not know why the board would want to define an hour as 50 minutes. A contact hour should mean what it says, "an hour of contact". If need be, go into other places of the regs and reduce the required continuing education accordingly instead of perpetuating the idea that an hour is 50 minutes so that the continuing education requirements are suitable.</p> <p>"continuing professional education (CPE)" means participation in a structured training activity that enables a licensee to maintain and increase competence, knowledge, skills, and abilities required to assure the public's protection as determined by DPOR staff to the board or the board. Coursework provided by VAPSS, VOWRA, VDH, VEHA, NEHA, NOWRA, CDC, community college system, etc. shall qualify for this standard. Coursework in understanding impacts of public health shall qualify. Coursework provided by manufacturers of proprietary products will not meet this standard unless endorsed by one of the above mentioned organizations.</p> <p>As currently written, a licensee could argue that he met the definition and it would qualify. It would seem that the regulation should say who has the final "word" on the matter since a plain reading of the definition and regulation is obtuse</p>	<p>The nature of the suggested amendment is not clear.</p> <p>Fifty minutes recognize the need for periodic breaks during training.</p> <p>CPE may be sponsored by anyone as long as the subject matter is drawn from the Board examination content outline.</p> <p>The Board has the final "word" on continuing professional education compliance.</p> <p>Nature of the comment is not clear.</p> <p>The distinction between conventional and alternative is drawn from the <i>Code of Virginia</i>.</p> <p>The Board for Contractors regulates firms, not individual installers.</p> <p>The Board sees no reason to require the use of a seal.</p>
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	<p>on how disputes about qualified training are handled. Also, installing, operating, maintaining, using, inspecting, and designing treatment works has many public health aspects. Training should include coursework in general understanding of public health principles and not just coursework to improve your efficiency on the job.</p> <p>"Conventional onsite sewage system" means a treatment works only consisting of one or more.....</p> <p>This definition could include alternative sewage systems and treatment works generally since alternative systems can consist of "one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield". Using the plain language of the definition, a conventional onsite soil evaluator could design what would be considered an alternative sewage system and call it a conventional system because it would meet this definition as currently written.</p> <p>"Conventional onsite sewage system installer" means an individual licensed by the board and the Contractor's board to construct, install, evaluate for repair, consult for repair, and repair conventional onsite sewage systems that are not also considered alternative sewage systems. Require use of seal</p> <p>The Board should include regulations that require OSEs to seal their work and include minimum standards and procedures (just as DPOR requires of surveyors in 18VAC10-20-380 et. sequence.) DPOR should fully regulate its regulants and include minimum standards and procedures, just as it does in other areas. By just regulating the entry into the profession, DPOR ties its hands with finding fault with its regulants.</p> <p>Recommends that DPOR copy the rules from what is required of engineers, surveyors, architects, and others who design and must seal their work. By requiring a regulant to seal his or her work, then the standards are elevated for the profession:</p>	<p>Licensees are required to comply with VDH regulations as well as the Board's regulations throughout their practice. Failure to do so can result in disciplinary action. VDH sets onsite sewage standards and the Board does not want to pass a regulation that conflicts with VDH regulations.</p> <p>An amendment has been made to allow VDH AOSEs to qualify for an alternative OSE license without taking the Board's examination. It is not clear what additional KSAs the commenter has in mind or the nature of the hazard such KSAs would address.</p> <p>It is not clear which licenses the commenter has in mind.</p> <p>The Board anticipates that its examination will adequately address public health.</p> <p>The Board cannot amend 54.1-2301 of the <i>Code of Virginia</i>, which resulted from acts of the General Assembly.</p> <p>The Board has no authority to grandfather anyone as a provisional CPSS.</p>
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	<p>States that the Board should specify the minimum standards of practice for the professions. If these are not included in the regulations DPOR is not exercising its due diligence. Recommended a number of specific standards and the use of the US Department of Agriculture soil texture classes and soil colors.</p> <p>Recommends adding the phrase “operate, design, evaluate, inspect, install treatment works” to the definition of experience. Recommends that DPOR keep the standards that VDH set through public participation – as they went through a technical review committee and public scrutiny. Grandfather all people certified by the Board of Health as OSEs and add to this requirement some additional KSAs for the AOSE license (not additional experience).</p> <p>Recommends the Board consider having just one license and re-examine the economic impact of requiring owners to hire persons that must hold two licenses rather than one for a given task. Recommends that the costs be better defined before proceeding.</p> <p>States that if the Board does not intend to test regulants on public health principles in protecting public health and the environment that acceptable contact hours should include training on public health principles. States that § 54.1-2301 needs to be amended to specify one class of evaluator and one class of designer and the designer license should be placed with the BWWW and the soil evaluator license should be placed with the CPSS Board.</p> <p>Current AOSEs certified by VDH should be grandfathered as DPOR licensed onsite designers and regulators should be exempt from licensure requirements for conventional systems. Current certified APSE with VDH should be grandfathered as provisional CPSSs with a stringent CPE requirement and regulators should be exempt from licensure requirements until such time that VDH get out of the soil</p>	
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	<p>evaluation business.</p>	
<p>Wayne &amp; Sandra Gentry</p>	<p>Point source discharge needs to be defined in the regulations. Regulations should specify which systems require maintenance and which will require operators. Currently there are not many conventional systems that require operators or maintenance – who will have the experience required in the regulations to get a conventional operator license? The proposed regulations need to be clarified to state who is to hold the Sewage Disposal System license. Suggests adding a requirement that anyone who inspects a septic system installation provide the installer with some documentation at the time of inspection stating that the inspection has been done and the outcome of the inspection. Suggests that the requirements for a conventional onsite sewage operator be changed to either drop the education and experience requirements and only have the testing, or require testing and experience. All pages on a septic design include the legal description of the property it's designed for and a date of that design. Licenses should be Class A and Class B instead of conventional installers, conventional OSEs, alternative installers, and alternative OSEs. Do the regulations specify which systems will require operators? It may be very difficult to license interim operators for conventional systems if the requirement for previous experience stands. What is meant by a firm holding a Sewage Handling and Disposal Permit (SHDP) issued by the VDH as we have never seen one of these permits in our forty plus years as installers? Does the contractor who holds a SDS license qualify for the two year experience under a SDS contractor requirement? Who is the licensed individual that will need to certify the completion statements and operation permits – VDH employees? Operation permits are rarely seen. What about the jobs performed before July? Will VDH be required to “certify” documentation for every installer who applies for a license? A high school education does not provide any knowledge of this field of work – how does a GED or high school diploma substitute for a year of experience as a</p>	<p>Point source discharge facilities are not impacted by the 2007 legislation and the Board has no authority to regulate.</p> <p>The Board for Contractors regulations specifies who must hold a contractor license with an SDS specialty.</p> <p>The remaining comments do not address an existing hazard and do not explain how the suggested amendments will reduce public hazard.</p> <p>The SHDP referenced has been removed.</p> <p>VDH responsibilities change very little under the amended statutes.</p> <p>Using Class A and Class B, while less wordy, are also less descriptive than conventional and alternative.</p> <p>One CEU represents 10 CPE's.</p> <p>The entry standards have been amended for clarity.</p> <p>Alternative licensees may perform all tasks that a conventional license may perform.</p> <p>An installer ordering an inspection of his work may insist on documentary evidence without a requirement of regulation.</p>

	<p>sewage handler or working under an operator? Why must one possess a valid conventional license before applying for an alternative license? Those who already do this work will then have to give up when they get their alternative license. Suggests requiring anyone who inspects an installation to provide the installer with some evidence of the inspection at the time it's done as it may be impossible at a later date to prove the inspection was done – this should apply to EHS, AOSE, PE, and anyone else who performs inspections. Why are the licensing requirements so “wordy?” It would be simpler to have Class A and Class B OSEs, Class A and Class B installers, and Class A and Class B operators. This could eliminate confusion in the propose regulations and bring the industry closer to others in the building trades. The transition is going to be hard enough without making the regulations difficult to understand. The Board should provide a more readable form. Comments about CPE costs if one CEU equals one CPE concluding that costs will be in the thousands of dollars plus travel, lodging and time away from work expenses. Regulations will require a part of the industry that has previously been essentially unregulated to spend considerable money and time to be able to continue in work that many of them have been performing in a very professional manner for decades. Licensing of installers and operators for alternative systems has been mandated by the GA but not for conventional systems. If the regulations as currently stated are the ultimate goal then why not create an intermediate step so the industry can catch its collective breath while coming into compliance? At the end of four or five year from implementation of the proposed regulations – revisit the issues and see if changes need to be made.</p>	<p>The regulations are mandated by an act of the Virginia General Assembly. No authority was provided for an intermediate step.</p> <p>All regulations are subject to periodic review.</p>
<p>Harold Matthews</p>	<p>Supports the legislation but is concerned with the proposed regulations. Suggests the regulations state that no one individual can do the evaluations, the design of the system and install and inspect that system if he is the owner of the business which does the installation.</p>	<p>The Board feels that the oversight provided by VDH and the Board for Contractors addresses this concern.</p>

<p>Steve Thomas</p>	<p>Believes every current AOSE has the right to continue the work they have been doing – new regulations from DPOR should not change that. Stated all current certified AOSEs should be grandfathered into the new DPOR regulations. States that all current AOSEs and CPSSs should be governed by the CPSS Board. Licensure for soil evaluators should be under the CPSS Board. States the separate license cannot be supported technically or logically. Requests an amendment stating that current dual CPSSs and AOSEs be grandfathered as licensed professional soil scientists which would encompass drainfield evaluation and design for both conventional and alternative systems. Those currently certified as AOSEs only should be granted an interim license to be eligible to sit for the license professional soil scientist exam. Requests an amendment requiring any soil and site evaluation be performed in accordance with specific standards used by USDA NRCS for soil evaluation, descriptions, nomenclature, etc.</p>	<p>The Board has amended its proposed regulations to allow VDH OSE's to qualify for an alternative license without taking an exam.</p> <p>The Board has no authority to grandfather anyone as a licensed professional soil scientist.</p> <p>No rationale was given for requiring compliance with USDA NRCS standards.</p>
<p>Roger Nelson</p>	<p>Requests a grandfather clause for all current CPSSs and AOSEs in good standing.</p>	<p>VDH AOSE's have been given a means to become alternative onsite soil evaluators without passing the Board's examination.</p>
<p>Bob Willoughby</p>	<p>States that any current AOSE should not have any duties (designing or evaluating) taken away from them because of the new regulations.</p>	<p>No duties will be taken away as a result of the amended regulations.</p>
<p>Charles Allison</p>	<p>Supports the VAPSS/VAAOSE joint statement that all soil evaluators come under an umbrella of the CPSS Board. Supports the grandfather allowance in the regulations. States that anyone that can design a conventional system can design an alternative system and vice versa.</p>	<p>The Board has no authority to place soil evaluators under the CPSS Board.</p>
<p>Danny Hatch</p>	<p>States there is no differentiation between conventional and alternative – soil is soil. Pointed out that when the AOSE program began only CPSSs were allowed to apply for the AOSE certification. There should be professional criteria for soil evaluation set into the new regulations.</p>	<p>The language has been amended to allow conventional OSE's to evaluate soil for an alternative system. No professional criteria were suggested.</p>
<p>David Hogan</p>	<p>Supports the VAPSS statement. Feels the BWWW can save redundancy by allowing</p>	<p>The Board has no authority to place soil evaluation under the Board for Professional</p>

	<p>the CPSS Board to govern the soil evaluators. States the challenge in the regulations is going to be the design and exempting out what is considered the practice of engineering.</p>	<p>Soil Scientists and Wetland Professionals.</p>
<p>George Swecker</p>	<p>States if you are going to do soil evaluations you should be a CPSS or an AOSE. CPSSs and AOSEs should be able to do the work they have been doing and go to subdivisions and state that 10 out of the 20 lots will require alternative systems and get the designs approved and not be considered to be doing engineering. Requests that the Board not prevent individuals from doing the footprint work they have been doing with these new regulations.</p>	<p>Nothing in the proposed regulations changes the work which a CPSS or AOSE can perform.</p> <p>The practice of engineering is established by the <i>Code of Virginia</i> and the regulations of the APELSCIDLA Board.</p>
<p>VDH Supervisor – 20 years</p>	<p>18VAC160-20-82 – States that any EHS Senior who is currently engaged in onsite soil evaluation as part of their VDH employment should be included in the interim status classification.</p>	<p>The Board has amended its regulation to allow certain VDH employees to obtain conventional OSEs.</p>
<p>Andrew Carter</p>	<p>Recommends the following:</p> <ul style="list-style-type: none"> <li>- Allow alternative OSEs to evaluate soils and sites and design alternative and conventional septic systems (as allowed under the current program). If one can evaluate soils and sites and design an alternative system, than they sure as well can evaluate and design a conventional system.</li> <li>- Likewise for installers- Allow alternative system installers to be able to install alternative and conventional septic systems. If an installer can install an alternative septic system than they sure as well have the ability to install a conventional septic system.</li> <li>- Grandfather all current AOSEs, in good standing, to become alternative OSEs as of July 1, 2009. All AOSEs under the current program can propose conventional or alternative septic systems designs and perform site and soil evaluations. The exception seems to be that AOSEs cannot propose alternative septic system designs in parts of Northern VA. If one is allowed to propose an alternative septic system design and perform a site and soil evaluation now, WHY shouldn't one be</li> </ul>	<p>The language has been amended to make clear that an alternative licensee can perform any tasks of a conventional licensee.</p> <p>The language has been amended to make clear that an alternative licensee can perform any tasks of a conventional licensee.</p> <p>The language has been amended to allow VDH AOSE's to qualify for an alternative OSE without passing the Board's examination.</p> <p>Alternative license holders may perform any tasks that a conventional license holder may perform.</p> <p>Septic installers must have experience under a Board for Contractors licensee with an SDS</p>

	<p>able to do the same under DPOR? WHY do we need a re-examination and WHY should past examples of approved proposals be required? I understand these requirements for future OSEs, but just because DPOR is going to be overseeing the industry, WHY are AOSEs now asked to do more?</p> <p>- Allow all parties, if they qualify, to be able to hold multiple licensures. An individual should be able to be a conventional and an alternative OSE. Furthermore, an OSE should be able to install septic systems and be an operator as well.</p> <p>States it should not be required that septic installers must have experience working with a firm with a pump truck.</p>	<p>specialty</p>
<p>Anonymous</p>	<p>There should be a mechanism to handle situations created by currently certified AOSEs who transitions to this program under DPOR.</p>	<p>Amendments have been made to assure that transition.</p>
<p>Amy Pemberton</p>	<p>Regard should be given to those experience VDH staff who have remained practicing under the VDH umbrella and granted interim licensure without the burden of additional testing.</p>	<p>Amendments allow certain VDH employees to qualify for an interim license as long as they remain VDH employees.</p>
<p>Steve DiPietro</p>	<p>States that a bond and warranty should be required of any vendor practicing in the design and installation of onsite sewage systems. Accountability must be created in the regulations.</p>	<p>The comment does not address a current harm caused by a lack of bond or warranty.</p>
<p>Don Alexander</p>	<p>18VAC160-20-109 – Continuing education – Recommends a wording change:</p> <p>A. Each licensee and provisional licensee shall have completed the following number of CPE contact hours <u>of which not more than 5 hours of education was obtained during the two previous renewal cycles and the remainder obtained during the current renewal cycle:</u> ....</p> <p>H. The licensee or provisional licensee may petition the board for additional time to meet the CPE requirement. However, <u>except as noted in subsection A, CPE hours earned during a license renewal cycle to satisfy the CPE requirement of the</u></p>	<p>The Board views the proposed standards as adequate and sees no reason to allow 5 hours of carryover.</p>

	<p>preceding license renewal cycle shall be valid only for that preceding license renewal cycle.</p>	
<p>Jeff Crider</p>	<p>Recommends the Board consider the following language for new installers learning to install systems under a “grandfathered” installer:</p> <ol style="list-style-type: none"> <li>1. Provide documented evidence of experience installing and maintaining the types of equipment found in alternative and conventional wastewater systems.</li> <li>2. Provide evidence of successful completion of a board-approved course in wastewater plant operation.</li> <li>3. Pass the Board approved examination.</li> </ol> <p>At this point, they would be granted an interim license to install the number of systems required to obtain their full license. These systems would be installed under the supervision of a PE. A standard license would be granted after the applicant satisfied the following requirements:</p> <ol style="list-style-type: none"> <li>1. The required numbers of installs were performed to the satisfaction of the supervising PE.</li> <li>2. The PE issued a letter attesting to the installer's competence.</li> <li>3. VDH issued the approvals to place the systems in operation.</li> </ol>	<p>The Board appreciates the suggestion but feels that the proposed standard is adequate.</p>
<p>James B. Slusser</p>	<p>Financial and time resources should not be wasted on behalf of the taxpayers to fix something that is fine; a trained professional who has grown to specialize in the siting, evaluation of soils, and design of an onsite system. Limiting the OSE to only evaluate soils for conventional systems will only further delay projects for home owners and cause additional financial burden. Suggests DPOR add to the regulations a standard for the quality of work – quality assurance requirements.</p>	<p>The conventional OSE license is mandated by statute.</p> <p>Onsite sewage system standards are under the authority of VDH and not the Board.</p> <p>Amendments have been made to allow VDH AOSE's to qualify for an alternative OSE license without passing the Board's exam.</p>

	<p>Establish additional standardization of hydraulic conductivity or accepted percolation data for all soil evaluations. All current VDH AOSEs should be grandfathered into an AOSE certification with the exception of those who have not completed the required designs – those who have not completed the designs shall be given a conditional AOSE certification and must within three years work directly with or under the supervision of a licensed AOSE.</p>	
<p>John Lam</p>	<p>States the proposed regulations are vague in terms of “design” and the role and responsibility of an on-site soil evaluator as it pertains to an on-site sewage disposal system. There is no definition of “design” contained within the regulations. Does design only infer the physical lay-out of a system footprint based upon a prescriptive formula from VDH; or does it also include a site specific layout of system components in relation to the sewage disposal system area, house site, and site topography similar to a typical engineering design? Most of the previous comments to date have been very negative in regards to the proposed regulations and further clarification would be prudent in alleviating the major concerns.</p> <p>States as proposed, dividing the on-site soil evaluator into classes (conventional or alternative) for the purpose of conducting a soil evaluation for a sewage disposal system does not make any practical or rational sense. A licensed on-site soil evaluator should have the ability to determine whether or not site/soil conditions meet the requirements for a conventional or an alternative sewage disposal system separate from the actual design of the system.</p> <p>States the proposed regulations state that “no licensee shall hold both a conventional and an alternative license simultaneously”. What is the purpose of limiting an evaluator to either conventional system or alternative system licensure— why can’t a person qualify to do both? It makes more sense to license the soil evaluation as a separate function from the</p>	<p>The language concerning the design functions of an OSE has been amended.</p> <p>The specifics of an onsite sewage system design are under the authority of VDH.</p> <p>The suggested amendment to allow conventional OSE’s to evaluate soils for alternative systems has been made.</p> <p>Amendments have been made to make clear that an alternative licensee can perform all tasks that a conventional licensee may perform.</p> <p>Amendments are being made to allow VDH AOSEs to obtain an alternative OSE without passing the Board’s examination.</p> <p>Conventional and alternative classes of license are mandated by the enabling statute.</p>

	<p>system design.</p> <p>States the current requirements used by VDH to license AOSEs based upon experience, a written exam, and a field test are adequate in determining the qualifications and skills and abilities of an applicant to perform a soil evaluation for an on-site sewage disposal system. The regulations need to be revised to contain a “Grandfather Clause” to automatically qualify AOSEs in good standing who have passed the VDH exams as licensed on-site soil evaluators. These individuals have already been vetted by VDH through experience, competency, and testing and should not have to go through the process of re-examination in order to maintain a livelihood.</p> <p>States if the term “design” is intended as something other than the physical stake-out of a system, then dividing the design phase of an on-site sewage disposal system into conventional and alternative classification does have validity due to the complexity of alternative systems. The regulations need to be re-drafted to make this distinction with a better clarification of what is allowed under alternative system design without impinging upon the practice of engineering.</p>	
<p>Janet Hicks</p>	<p>Why does the Board think a sewage handler who only pumps sewage from the system and delivers it to the processing plant need one year of full time experience to qualify for a license? The definition of sewage handler includes a reference from the health department which they are in the process of changing – what happens when the references in the proposed regulations are no longer accurate with another set of regulations? What about requiring NSF certification to become an operator for alternative or conventional systems? States the practice should be defined and not reference another regulation as part of the definition. Feels the definitions of sewerage system and wastewater works are odd. Why define wastewater works when that is already defined by DEQ?</p>	<p>Section 54.1-2302 requires those operating onsite sewage systems to be licensed. Pumping clearly can affect the affluent at an onsite sewage system. Sewage handlers are regulated by the VDH.</p> <p>The reference to VDH regulations can be amended very quickly as an exempt action when VDH revises its regulations.</p> <p>The commenter does not state how requiring NSF certification would assure competent practice.</p> <p>The Board regulates wastewater operators and, for this reason, must define wastewater operators.</p>
<p>Mark Jones</p>	<p>The Board should consider adopting</p>	<p>No rationale was provided to explain how</p>

	regulation language similar to that of Kentucky. A number of the provisions of Kentucky's regulations are quoted.	Kentucky's regulations suggest a better regulatory program.
Dominick Gibino	The proposed regulations are confusing and unclear – the Board should produce a separate document explaining the process and regulations. A list of objective, traceable to each of the detailed proposed regulatory changes should be produced. States the proposed regulations are proceeding without adequate input from the small businesses who will be impacted – pumpers/installers/maintainers.	The commenter does not provide specific information about the problems he sees with the proposed regulations or how specific hazards may be lessened by his suggestions.
Professional Engineer	States a professional engineer should be exempt from the requirements placed in the proposed regulations and should not be required to meet the license requirements.	PE's trained and experienced in soil evaluation and system design may practice under their PE license.
Virginia Environmental Health Association	States requirements for licensure of all onsite professionals is a positive change.	The Board is grateful for the kind words.
Ron Fellenz	States that the lost revenue from the time spent in training classes will exceed \$10,000 per year which is a huge sum for small businesses. This is not the time to place additional financial burden on small businesses. States there are many less costly ways of assuring quality without placing unnecessary burdens on small businesses. Requests the deadline for public comment be extended 60 days as there was not adequate time to respond. Requests a second comment period after the current proposed regulations are revised and timely advance notice of the revised regulation comment period.	No information is provided as to what the \$10,000 expenses will be and no suggestions as to less costly alternatives are provided.  The Board will continue in strict compliance with the Virginia Administrative Process Act in promulgating its regulations.
Eastern Region Onsite Committee (VDH)	In support of the regulations overall; however, the mechanism for transition is cumbersome and create undue burden for existing experienced VDH staff. Overall feels a lack of representation of those currently working in the field.	An amendment has been made to benefit certain VDH staff by allowing them to qualify for an interim license.
John Burch	States that everyone with a valid contractor license with CDC classification; or with documentation from a licensed SDS installer having a number of years experience should be grandfathered for a full unrestricted license without need of testing; except that testing will be needed if the worker/contractor allows the license to lapse beyond one year or if there is no	Contractor licenses are issued to firms and onsite sewage system installers are individuals.  The exam is necessary to ensure minimum competence.

	viable documentation to support their experience.	
Mary	DPOR should review applicant’s history of violations/infractions etc. and the ones with those violations/infractions etc. should be the ones questioned when applying for a license.	The application form will require disclosure of disciplinary actions. Those with violations will receive due process under the Virginia Administrative Process Act.
Anonymous	Does not agree with the proposed regulations	The comment does not provide sufficient information to enable the Board to respond.
Anonymous	The future need of public services will rise due to the increasing latitude afforded the private sector onsite designers.	The comment does not provide sufficient information to enable the Board to respond.
Concerned	What makes a professional engineer qualified for soil evaluation unless they have proven their skills in soils and have education supporting soil science?	PE’s run the risk of disciplinary action against their license if they evaluate soil without being competent to do so.
Anonymous	The Board should suspend the regulatory process and begin new work sessions with a legitimate stakeholder committee. The Board should for an ad-hoc committee of stakeholders representing contractors, operators, VDH staff, AOSEs, PEs homebuilders, environmentalists, rural planning districts, and others. Requests that the Board have a multiple day meeting to adequately review the comments and the proposed Board response before adopting the regulations as final. The Board will not be seen a legitimate if they only rely on DPOR staff to propose a final regulation after a one-day meeting. Suggests that DPOR staff read the AOSE regulations and GMP126 and copy as much of the non-controversial information as possible.	The Board has strictly complied with the provisions of the Virginia Administrative Process Act in promulgating its regulations.
Dean Thompson	Happy to see the license process for installers. Concerned that the proposed regulations will negatively affect VDH staff.	The Board has made amendments that should lessen VDH staff adverse impact.
Lawrence R. Fellenz, Jr.	The number of systems installed should not be a requirement for an installers license – your knowledge and ability to install the system correctly should be to only requirement. This one requirement will put many small businesses out of business.	Installing systems builds one’s knowledge and ability. No alternative was suggested for the Board to consider.
Roger Burnett	Recommends the revised regulation along with the recommended changes be	The Board feels that there are sufficient differences between conventional and

	<p>published with page and line numbers to assist the public with review and comment. In favor of regulating the industry as professionals but states the regulations as proposed will not accomplish this goal. Alternative and conventional systems should not be separated – should just be septic system installers. Contractors should be able to hold – simultaneously – licenses to install alternative and conventional septic systems.</p>	<p>alternative systems. Requiring an alternative license for conventional systems is too burdensome. Alternative installers may also install conventional systems.</p>
<p>Sherilynn J. Hummel</p>	<p>States the regulations are confusing due to the lumping together of the soil professionals, septic contractors, and maintenance providers into one regulation. There is no reason a person cannot be licensed in two or three of these areas but they should all be separate licenses. Licensing standards appear to be arbitrary. Current licensees should be allowed to keep their licenses and continuing education should be required. There does not appear to be a program to provide oversight of field training in the regulations. The Board should consider certifying experienced professionals to provide the mandated experience. There should be a clear code of ethics statement and a requirement to inform the public and any client of a conflict of interest. There should be more emphasis on handling sewage in a manner safe to the homeowner, the worker, and the environment.</p>	<p>They are separate licenses and the standards are based on VDH regulations and experience. 18VAC160-20-150 provides for training course approval.</p>
<p>Joe O’Rear</p>	<p>The proposed regulations do not set forth the requirement for the division of onsite soil evaluators into classes – they set forth classes of onsite soil evaluators, not the requirement for the division of onsite soil evaluators into classes. The Board should only consider one class of soil evaluator at this time but establish requirements for any future division of classes will be based on demonstrated need. States that owners are the ones who pay for everything we have – concern for their health and welfare is foremost in the engineer’s mind.</p>	<p>The enabling statute mandates two classes of OSE’s.</p>
<p>W. Todd Benson on behalf of Piedmont Environmental Council</p>	<p>Finds proposed regulations insufficient to adequately protect the health, safety and welfare of the public. States numerous definitions are flawed. And inconsistent with the Code of Virginia. The inconsistency between the proposed regulation and the explanatory data must</p>	<p>A number of definitions have been amended in response to public comment.  The comment does not articulate how the existing proposed regulations are defective.  The Board may discipline any of its regulants</p>

	<p>be reconciled. The Board needs to (1) revise the regulations to be consistent with the legislation (2) expand the scope of the regulations to ensure that licensed individuals continue to perform at a skill level sufficient to ensure the health, safety and welfare of the public and (3) the regulations need to be drafted using terms and requirements consistent with the terms and requirements in the regulations promulgated by VDH pursuant to §§ 32.1-163 (et seq.).</p>	<p>that fail to comply with VDH regulations.</p>
<p>Eric R. Tambourine</p>	<p>Strongly supports the comments and suggestions presented by VOWRA and request that the Board implement the changes recommended. Mostly disagree with the VAPSS position. Particularly, their misguided attempts to reverse the General Assembly mandate to create two levels of onsite soil evaluator under your Board and demand licensure of the Professional Soil Scientist. Agree that most CPSS are qualified to evaluate soils properties for a multitude of applications, not all CPSS are trained or experienced in evaluating soils for the purpose of siting and designing OSDS. And, that is why the VDH currently requires a CPSS to pass the written and field examination. Support the same requirement for licensure within the DPOR Regulations.</p> <p>1. If the goal of the Board is to transfer the existing Department of Health regulatory program for the VDH AOSE to DPOR with limited impact on small businesses and citizens, why create an interim license for individuals holding a VDH AOSE certification? It seems excessive, redundant and burdensome to require a VDH AOSE to study, pay for and pass a board-approved written exam, when the professional has already demonstrated to another regulatory agency(s) that they possess the education, knowledge and skill to qualify as an Onsite professional. Besides, the licensing requirements of the proposed regulations appear to be less stringent than the current VDH AOSE Regulations. Does not believe this elevates the profession.</p> <p>For example, for new applicants for the licensed COSE, 1) the board-approved examination should include a peer review</p>	<p>The Board is amending its proposed regulations to enable VDH AOSE's to qualify for an alternative OSE license without passing the Board's examination.</p> <p>The Board has based its entry standards on VDH regulations and experience and believes the proposed standards as amended are appropriate.</p> <p>The Board believes its examination will be adequate to assure competent practice.</p> <p>The Board has made amendments to allow individuals to qualify for licensure in a number of ways.</p>

	<p>field test as required by the VDH AOSE Regulations, not just a written test; 2) two, four or eight years (depending on education) of full-time experience evaluating site and soil conditions in compliance with the Board of Health's Regulations should be required instead of two, three and eight years under your Regulations; 3) the applicant should provide at least three professional references (from supervisors, regulatory officials or other licensed professionals) instead of none; 4) the applicant should complete training courses required and approved by the Board in addition to the experience requirements, instead of no training; 5) the topics within the written examination should be limited to site evaluations, soil science and conventional OSDS design; and 6) the VDH AOSE would be exempt from the education, experience, training and testing requirements since they have qualified under the VDH.</p> <p>For new applicants for the licensed AOSE, 1) the board-approved examination should include a peer review field test as required by the VDH AOSE Regulations, not just a written test; 2) four or eight years (dependant on education) of full-time experience evaluating site and soil conditions in compliance with the Board of Health's Regulations during the last 10 years should be required instead of two, three and four years under your Regulations; 3) the applicant should provide at least three professional references (from supervisors, regulatory officials or other licensed professionals), instead of none; 4) the applicant should complete training courses required by the Board in addition to the experience requirements, instead of no training; 5) the topics within the written examination should include site evaluations, soil science, conventional and alternative OSDS design; 6) the CPSS should be included with a direct pathway to a licensed AOSE with two years of full-time experience; 7) four years of COSE experience should not qualify you to become a licensed AOSE. What if the COSE never completes or recommends an alternative system design?; 8) evidence</p>	<p>The Board has amended its proposed regulations to enable certain VDH employees to qualify for an interim license.</p> <p>The definitions have been amended to include design of onsite sewage systems.</p> <p>DPOR licenses and regulates the individuals and VDH regulates the onsite sewage systems.</p> <p>The meaning of full-time experience is clear.</p> <p>Geology is being added as suggested.</p>
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	<p>of work should not be required. There is no precedent for this in other regulatory boards and would be burdensome for the DPOR Board. Plus, providing this evidence is costly to small businesses in terms of the time spent gathering the proof. Suggestion is to establish a minimum set of experience benchmarks (similar to the CPSS Board), have the applicant provide a chronological list of jobs meeting or exceeding those benchmarks, and require signatures from professional references backing up their claim; and 9) the VDH AOSE should be exempt from the education and experience requirements since they have qualified under the VDH. However, they should be required to take a portion of the exam testing their knowledge of alternative treatment and dispersal technology.</p> <p>2. Environmental Health Specialists and Supervisors should have an interim license for conventional OSDS evaluation and design. Currently, they are prohibited from designing alternative OSDS because of a real conflict of interest. At the end of the interim period, say three years, the EHS should be prohibited from evaluating and designing any OSDS. The interim period would assure that an Onsite professional is available in regions of the Commonwealth where AOSE presence is weak and would allow time for the licensed COSE/AOSE presence to increase.</p> <p>3. The definition of COSE and AOSE should be expanded to include the design and inspection of OSDS, unless there is a memo of understanding with the VDH declaring that they have the authority to decide who gets to do what. I think this is where the bulk of concern is among onsite professionals. Where does DPOR/VDH authority and jurisdiction begin and end in regard to the roles and responsibilities, the practice of engineering, standards of practice and discipline? – 3 – March 6, 2009</p> <p>4. Define or quantify “full-time experience” instead of “experience” so an OSE in training has something to shoot for.</p> <p>5. In Section 18 VAC 160-20-96, item "b" under COSE, add "geology" to the list of degrees or better yet</p>	
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	replace the whole science group to “within one of the natural sciences” (universities are always changing the degree names or adding new ones).	
Sam Carter	Suggests the regulation require operators obtain training from system manufacturers to properly operate the systems.	Operators must perform their duties in a competent manner and the Board requires that they will obtain the necessary training to maintain their competence.
J. D. Scott	A regulation should not be designed where there are two classes of soil evaluators. Wastewater treatment systems installers and operators should be licensed in tiers. The BS degree in biology/chemistry/engineering is far too removed from the fundamentals of soil science to be of much value as far as formal exposure to soil systems. There should be another section which requires more experience for other disciplines, or less for an applicant with a degree in soil science. The CPSS should be the standard for all soil evaluators. There should not be a re-test of the existing AOSEs – there is no basis and adds significant cost. Grandfathering without the re-test requirement is the only practicable, justifiable, and reasonable solution.	The comment does not articulate a reason for a different number of OSE tiers.  The Board feels that the BS degree requirement provides adequate academic background.  VDH AOSE’s may qualify for an alternative OSE license without taking the Board’s examination.
Phillip R. Cobb	What is the need for such a drastic overhaul of the onsite program? There is no need to separate alternative and conventional licenses.	The Board is mandated by law to promulgate regulations governing individuals performing OSE, operator, and installer tasks.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18VAC160-20-10	N/A	Definitions of terms used in the regulation language	Added definitions to support the Onsite Sewage System Professionals regulatory program. The following definitions were added or amended:  “Alternative onsite sewage system” is added

		<p>to specify the alternative system's characteristics.</p> <p>"Alternative onsite sewage system installer" is added to specify the tasks an alternative system installer may perform.</p> <p>"Alternative onsite sewage system operator" is added to specify the tasks an alternative system operator may perform.</p> <p>"Alternative onsite soil evaluator" is added to specify the tasks an alternative evaluator may perform.</p> <p>"Authorized onsite soil evaluator" or "AOSE" is added to specify the qualifications an AOSE must have to qualify for consideration under the proposed regulation.</p> <p>"Board" has been amended to include the full name of the Board effective on July 1, 2009.</p> <p>"Category" has been amended to include the new onsite sewage system professionals.</p> <p>"Continuing professional education" has been amended to include the new onsite sewage system professionals.</p> <p>"Conventional onsite sewage system" has been added to specify the characteristics of a conventional system.</p> <p>"Conventional onsite sewage system installer" is added to specify the tasks a conventional installer may perform.</p> <p>"Conventional onsite sewage system operator" is added to specify the tasks a conventional operator may perform.</p> <p>"Conventional onsite soil evaluator" is added to specify the tasks a conventional soil evaluator may perform.</p> <p>"Direct supervision" is added to clarify what activities comprise direct supervision.</p> <p>"Direct supervisor" is added to clarify who may be considered a direct supervisor.</p> <p>"Experience" is amended to include the new</p>
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		<p>onsite sewage system professionals.</p> <p>“Interim license” is added to create an instrument for those currently practicing to allow them to continue lawful practice until they can qualify for a license.</p> <p>“Interim licensee” is added to refer to the holders of such licenses as referenced in the regulations.</p> <p>“Licensed operator” is amended to include an onsite sewage system operator.</p> <p>“Maintenance” is added to specify those tasks that are maintenance in nature.</p> <p>“Onsite sewage system” is added to specify the characteristics of an onsite sewage system.</p> <p>"Operate" is amended to include onsite sewage systems.</p> <p>“Operator” is amended to include operators of onsite sewage systems.</p> <p>"Operator-in-training" is amended to include operators of onsite sewage systems.</p> <p>"Owner" is amended to specify what constitutes an owner and to include the onsite sewage systems.</p> <p>"Responsible Charge" is amended to include onsite sewage systems.</p> <p>“Sewage” is added to specify the components that are to be treated by onsite systems.</p> <p>“Sewage handler” is added to describe an individual that performs specific tasks.</p> <p>“Sewerage system” is added to specify the characteristics of a sewerage system. The definition is drawn from the Sewage Handling and Disposal Regulations.</p> <p>“Structured training activity” is amended to add “distance learning,” thus allowing on-line and interactive courses.</p> <p>“Transportation” is added to differentiate vehicular movement of sewage from</p>
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			<p>movement in pipes.</p> <p>“Treatment works” is added to specify what hardware and equipment comprise sewage treatment facilities. The definition is drawn from the Sewage Handling and Disposal Regulations</p> <p>““VDH” is added to allow its use in the regulation to replace “Virginia Department of Health.”</p> <p>“Wastewater works operator” is added to differentiate between wastewater works operators and onsite sewage system operators.</p> <p>“Waterworks operator” is added to differentiate between waterworks operators and onsite sewage system operators.</p>
18VAC160-20-74	N/A	Describes the circumstances that require an individual to possess a license in order to operate lawfully. Currently, the regulation applies to individuals operating waterworks and wastewater works facilities.	<p>Subsection B is amended to limit its application to just waterworks and wastewater works operators.</p> <p>Subsection C is added to require that individuals performing the tasks encompassed by the 2007 legislation possess a license in order to practice lawfully.</p> <p>Subsection D is also added to require both an alternative onsite sewage system operator license and a wastewater works operator license to lawfully operate a facility that exceeds 10,000 gallons per day in design flow.</p>
18VAC160-20-76	N/A	Establishes general requirements that must be met by each license applicant, regardless of the nature of the license applied for.	<p>Current subsection E is deleted in its entirety, and its substance now appears in subsections E, F, G and H.</p> <p>Subsection E contains the substance of former subsection E 3, requiring each applicant to provide a home address on his application.</p> <p>Subsection F contains the substance of the former subsection E, requiring each applicant to have passed the Board’s examination.</p> <p>Subsection G contains the language of former subsection E 2, requiring each applicant to be in good standing in every other jurisdiction where licensed.</p>

			<p>Subsection H contains the language of former subsection E 1, requiring applicants to be free of certain criminal convictions.</p> <p>Subsection I is added to make clear that those not meeting the qualifications in subsections G and H may be approved after consideration by the Board.</p> <p>Subsection J is added to move the provisions of 18VAC160-20-90 D for examination to the general application section. There is no change in substance.</p> <p>Subsection K is added to specify what VDH employees must provide to verify their experience when applying for a license.</p> <p>Subsection L which requires applicants that pass the examination make application in accordance with 18VAC160-20-76 is added to move the provisions of 18VAC160-20-90 E to the general application section. There is no change in substance.</p>
18VAC160-20-80	N/A	Establishes entry standards for those holding a license in another jurisdiction.	Amendments are proposed to include the new onsite sewage system professionals in the language.
N/A	18VAC160-20-82	This is a new section.	<p>Amendment to create an interim license for those who do not hold a valid authorized onsite soil evaluator certificate issued by the Virginia Department of Health before the effective date of the regulation.</p> <p>Subsection A provides for the issuance of an interim onsite soil evaluator license to any VDH employee who meets these standards.</p> <p>Subsection B enables holders of an interim onsite soil evaluator license to act a conventional onsite soil evaluator for the term of the license or until his VDH duties no longer require it, whichever comes first.</p> <p>Subsection C limits the life of the interim license to 48 months following issuance. Interim licenses may not be renewed.</p> <p>Subsection D requires application for an interim license in compliance with 18VAC160-20-76.</p> <p>Subsection E mandates that VDH employees who do not cause the</p>

			<p>Department to receive the application within six months after the effective date of the regulations must satisfy the requirements of 18VAC160-20-96.</p> <p>The interim license was created as a provision to allow employees of VDH who did not have an authorized onsite soil evaluator certification and are currently operating lawfully in Virginia to continue under the new regulations until such time as they could meet the new entry requirements, pass the examination, and become licensed. The standards were set at the minimum level that assures that the interim license applicant is minimally competent and allow adequate time to meet the standard mandated by the 2007 legislation.</p>
N/A	18VAC160-20-84	This is a new section.	<p>Subsections A and B enable application for an interim onsite sewage system installer and operator license, provided that the application is received in accordance with 18VAC160-20-76 within 12 months of the effective date of the regulations. Interim installer and operator licenses shall be valid for 48 months and shall not be renewed.</p> <p>Subsection C provides for the maintenance of onsite sewage system installer and operators licenses by applying for a full license under the provisions of 18VAC160-20-97 or 18VAC160-20-98 before the expiration of the interim license.</p> <p>Subsection D requires application in accordance with 18VAC160-20-76 and for each applicant to meet the specific entry requirements in the section.</p> <p>Subsection E sets the specific entry requirements for interim conventional onsite sewage system installers and interim alternative onsite sewage system installers. The standards recognize the work most likely being performed by competent individuals at the present time and allow those meeting the standard to qualify.</p> <p>Subsection F sets the specific entry requirements for interim conventional onsite sewage system operators and for interim alternative onsite sewage system operators. The standards recognize the work most likely being performed by competent</p>

			<p>individuals at the present time and allow those meeting the standard to qualify.</p> <p>The interim license was created as a special provision to allow those sewage system operators and installers currently operating lawfully in Virginia to continue under the new regulations until such time as they could meet the new entry requirements, pass the examination, and become licensed. The standards were set at the minimum level that assures that the interim license applicant is minimally competent and allow adequate time to meet the standard mandated by the 2007 legislation.</p>
18VAC160-20-90	N/A	Currently this section sets the entry requirements to qualify for a waterworks operator license and for a wastewater works operator license.	<p>The catch line and the opening paragraph have been amended to limit the provisions to waterworks operators and wastewater works operators.</p> <p>Subdivision A.2 is relabeled as B.2 and is amended to specify that supervision must be direct.</p> <p>Subdivision B.3 is relabeled as subdivision C.3 and is amended to enable experience obtained as a licensed alternative onsite sewage system operator to qualify for licensure as a Class IV wastewater works licensee. The technology used in alternative onsite sewage systems is sufficiently similar to that used in wastewater works plants to assure minimal competence. The examination will be the ultimate determinant of minimal competence.</p> <p>Subsection C is relabeled as subsection D.</p> <p>Subdivision C.2.c.(3) is relabeled as D.2.c.(3) and updates the reference to the approval of training as 18VAC160-20-150. The citation 18VAC160-20-160 is incorrect.</p> <p>Subsections D and E are repealed and added to the language in 18VAC160-20-76 as subsections J and L. As addressed above, the language concerning examinations has been moved to the section establishing the general entry requirements for all licenses.</p>
N/A	18VAC160-20-94	This is a new section	This section allows VDH AOSE's, whose certification was valid on June 30, 2009, to apply for and receive an alternative onsite soil evaluator license without having to take

			the examination. The Board recognizes that these individuals already meet the initial licensure requirements as established in 18VAC160-20-96.
N/A	18VAC160-20-96	This is a new section.	<p>This new section sets the entry standards for conventional onsite soil evaluators and for alternative onsite soil evaluators.</p> <p>Subsection A requires application to be made in compliance with 18VAC160-20-76.</p> <p>Subsection B requires that any applicant for a soil evaluator license who possess a valid interim license must show proof of completion of the Board's continuing education requirements to demonstrate compliance with the Board's regulations.</p> <p>Subsection C sets the entry requirements for both conventional onsite soil evaluators and alternative onsite soil evaluators.</p> <p>Subdivision C.1 requires conventional onsite soil evaluator applicants to possess a valid interim onsite soil evaluator license and pass the examination or to meet one of seven options addressing education and experience combinations in addition to passing the Board's examination.</p> <p>Subdivision C.2 requires alternative onsite soil evaluator applicants to possess a valid interim onsite soil evaluator license or a valid conventional onsite soil evaluator license, pass the Board's examination, and meet one of four education and experience requirements to qualify for a license.</p> <p>Subsection D is added to allow applicants for an onsite soil evaluator license to substitute education and training to meet the experience requirement for licensure as is currently done with waterworks and wastewater works license applicants.</p>
N/A	18VAC160-20-97	This is a new section.	<p>This new section sets the entry standards for conventional onsite sewage system installers and for alternative onsite sewage system installers.</p> <p>Subsection A requires application to be made in accordance with 18VAC160-20-76.</p> <p>Subsection B requires that any applicant for an onsite sewage system installer license who possess a valid interim license must</p>

			<p>show proof of completion of the Board's continuing education requirements to demonstrate compliance with the Board's regulations.</p> <p>Subsection C sets the entry requirements for both conventional onsite sewage system installers and alternative onsite sewage system installers.</p> <p>Subdivision C.1 requires conventional onsite sewage system installer license applicants to pass the Board's examination and meet one of three experience requirements.</p> <p>Subdivision C.2 requires alternative onsite sewage system installer license applicants to pass the Board's examination and meet one of five experience requirements.</p> <p>The final paragraph specifies how experience may be documented when the applicant was not a named individual on the contractor's completion statement and associated operation permit but did perform the work, provided that the documentation is received no later than 12 months after the effective date of the regulation.</p> <p>Subsection D is added to allow applicants for an onsite sewage system installer licenses to substitute education and training to meet the experience requirement for licensure as is currently done with waterworks and wastewater works license applicants.</p>
N/A	18VAC160-20-98	This is a new section.	<p>This new section sets the entry standards for conventional onsite sewage system operators and for alternative onsite sewage system operators.</p> <p>Subsection A requires application to be made in compliance with 18VAC160-20-76.</p> <p>Subsection B requires that any applicant for an onsite sewage system operator license who possess a valid interim license must show proof of completion of the Board's continuing education requirements to demonstrate compliance with the Board's regulations.</p> <p>Subsection C sets the entry requirements for both conventional onsite sewage system</p>

			<p>operators and alternative onsite sewage system operators.</p> <p>Subdivision C.1 requires conventional onsite sewage system operator license applicants to pass the Board’s examination and meet the experience requirement.</p> <p>Subdivision C.2 requires alternative onsite sewage system operator license applicants to possess a valid interim onsite sewage system operator license or a valid conventional onsite sewage system operator license, pass the Board’s examination, and meet one of three experience requirements.</p> <p>Subsection D is added to allow applicants for an onsite sewage system operator licenses to substitute education and training to meet the experience requirement for licensure as is currently done with waterworks and wastewater works license applicants.</p>
18VAC160-20-102	N/A	Current language establishes the fee structure for license application, license renewal, and examination.	<p>Subsection A was amended to emphasize that all fees shall be nonrefundable.</p> <p>Subsection D was repealed as current statute empowers the Department to recover dishonored check costs.</p> <p>No further amendment was needed as the fee structure applies to all licensees.</p>
18VAC160-20-104	N/A	Current language sets the standards for maintaining a license.	<p>The amendments are limited to adding “interim licenses” to the language, thereby; it requires holders of interim licenses to advise the Board of any change of name or address and to operate under the name in which the license is issued.</p>
18VAC160-20-106	N/A	Current language sets the standards for license renewal.	<p>Subsection A is amended to include onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators and sets the license expiration date at 24 months after the last day of the month wherein issued. It also mandates that all interim licenses expire 48 months from the last day of the month wherein issued.</p> <p>Subsection B is added to make clear that interim licenses shall not be renewed.</p> <p>The current subsection B has been renumbered to subsection C.</p> <p>The current subsection C has been</p>

			<p>renumbered to subsection D and has been amended to include the new onsite sewage system professional licenses.</p> <p>Subsection E is added to enable the licensee's act of submitting a renewal fee to DPOR to serve as his certification that he is in compliance with the Board's regulations and the continuing professional education (CPE) requirements.</p> <p>Current subsections D, E, F and G have been renumbered as subsections F, G, H, and I, respectively.</p>
18VAC160-20-109	N/A	Establishes continuing professional education (CPE) requirements.	<p>The catch line and the language in subsections A and B have been amended to include the new onsite sewage system professional licenses. The CPE standards for waterworks operators remain the same. Conventional onsite soil evaluators, conventional onsite sewage system installers, and conventional onsite sewage system operators are required to have 10 hours of CPE during each two-year license period. Alternative onsite soil evaluators, alternative onsite sewage system installers, and alternative onsite sewage system operators must complete 20 hours of CPE during each two-year license period.</p> <p>Subdivision A.7 is added to mandate 10 hours of CPE per 24-month license cycle for all interim licensees.</p> <p>Subsection C is amended to make reference to 18VAC160-20-150, Approval of Training. The citation 18VAC160-20-160 is incorrect.</p>
18VAC160-20-140	N/A	Current language establishes standards of practice and grounds for discipline for waterworks operators and wastewater works operators.	<p>The opening paragraph is amended to include interim licensees under the Board's authority.</p> <p>Amendments are made to subdivisions 1, 2, 3, 4, 5, 6, and 7 to include interim licensees under the sections' provisions and to replace waterworks and wastewater works language with language including all licenses to implement the 2007 legislation.</p> <p>Subdivision 4 is amended to include violations of any other relevant Virginia or federal regulations.</p> <p>Subdivision 8 has been added to empower the Board to take disciplinary action against</p>

			a licensee found to have undertaken or to have performed a professional assignment for which he is not qualified to perform by education, training, or both.
N/A	18VAC160-20-145	This is a new section.	This section has been added to require that licensees disclose financial interests which may affect the licensee's judgment or performance. It also prohibits a licensee from accepting improper compensation, soliciting suppliers' products or services, or accepting gratuities.
18VAC160-20-150	N/A	Current language establishes standards for training courses that may be used by license applicants to substitute for professional experience.	The amendments extend the section's provisions to the onsite sewage system professional licenses and deletes references limited only to waterworks and wastewater works operators in favor of language that applies to all of the Board's licensees. The language is also amended to specify that continuing professional education must be pertinent to the license for which renewal is sought.

**Regulatory flexibility analysis**

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

1) The establishment of the least stringent requirements for the newly regulated professions is evidenced by the language creating an interim license. Individuals currently practicing as onsite soil evaluations, onsite sewage system installations, onsite sewage system operations, or any combination thereof will be able to continue practicing while they work to meet the new requirements for licensure.

The Board began the task of developing proposed regulation amendments to implement the regulation of onsite sewage system professionals (OSSP) by appointing a nine-member committee. The OSSP Committee met eight times between November 2007 and June 2008 to develop a draft of proposed regulation amendments, which the Board considered, modified, and adopted as proposed regulation amendments on June 25, 2008. The OSSP Committee first focused on the current regulation of authorized onsite soil evaluators (AOSE) by VDH. The VDH program does not differentiate between onsite soil evaluators for conventional systems (the familiar back yard septic tank and drain field) and alternative systems (using processes similar to those used by wastewater treatment facilities that produce little or no water discharge to the environment). Currently all VDH certified AOSEs are authorized to perform soil evaluations for conventional and alternative systems.

The focus of concern was on the soils matrix impact of alternative systems and the need for more specific knowledge in soil evaluation and system design than is required for conventional systems. In addition,

the alternative systems are an emerging technology and subject to change, perhaps substantially, over the coming years. This led to the conclusion that the soil evaluators for alternative systems must have entry standards that assure that the new licensees understand the emerging technology and soils matrix impact.

In some parts of the Commonwealth, alternative systems are more in demand as the amount of land that will pass a “perk” test is diminishing, and this is creating an increased demand for alternative systems. However, in other parts of the Commonwealth, there is little demand for alternative systems as the result of much lower population densities and the availability of land that will “perk.” The Board concluded that two levels of onsite soil evaluator were appropriate rather than one all-inclusive level. Those desiring to practice only with conventional systems would have the option of seeking a license limiting their practice to conventional systems, while those desiring to practice with alternative systems (as well as conventional systems) would be required to seek an additional alternative soil evaluator license.

The concern for current AOSEs and for the public’s access to qualified onsite soil evaluator professionals was addressed by the creation of a provision to allow VDH AOSE’s with a certification current as of June 30, 2009, to apply for an alternative onsite soil evaluator license without having to take the examination or meet any other experience requirements. Additionally, VDH employees who are not AOSE certified but do perform soil evaluation and septic design will be allowed to apply for an interim license meeting requirements which still ensure continued minimum competence. The public is assured of continued access to the existing competent professionals while the new regulatory program is being implemented. The interim licenses will be valid for a period of 48 months, allowing the interim licensees adequate time to meet the Board’s entry standards and pass the Board’s examination for conventional onsite soil evaluator, alternative onsite soil evaluator, or both.

No Virginia regulatory program currently exists for onsite sewage system installers and operators, so the Board’s OSSP Committee looked to other states, with disappointing results. No state could be identified with an enabling statute similar enough to Virginia’s to be of significant assistance. The following analysis of three states’ regulatory programs illustrates the variety of regulatory approaches currently in use:

The Pennsylvania program focuses on the duties of sewage enforcement officers (SEO). There is a relationship between local agencies and the state-level department (similar to Virginia county health departments and the Virginia Department of Health). Procedures are in place for certifying individuals; training is provided by Pennsylvania, and a certification examination must be passed. SEOs are attached to local agencies. “Local agencies” are, as defined in the Pennsylvania statute regulating sewage facilities, entities attached to a municipality or group of municipalities that are responsible for permitting and overseeing onsite sewage facilities.

The West Virginia program does certify septic system installers after passing a written examination; however, no training or experience requirement exists. There is no regulation of onsite system operators or of onsite soil evaluators.

North Carolina’s regulatory program consists of two parts. One part of the program includes *voluntary* certification for sanitary sewage system contractors who install, construct, repair, or maintain conventional septic tank systems. The other part of the program includes *mandatory* certification for contractors who install, construct, repair, or maintain sanitary sewage systems that are required to have an operation permit and that are not conventional septic tank systems. System operators must meet training, education, and experience requirements.

None of the states’ enabling statutes envisioned a regulatory system where individual licensees were responsible for soil evaluation, system installation, and system operation as envisioned by Virginia’s 2007 legislation. Generally, states had requirements for individual certification, as illustrated above, and the entry standards involved training, education, experience, and examination in various combinations; this is not materially different from the regulatory program that Virginia has used for the effective regulation of wastewater works operators for approximately 30 years. The Board made the decision to develop entry

standards focusing on pertinent experience, relevant educational background, and a passing examination grade. The examinations will be developed for Virginia's specific needs, utilizing the experience and insight of several subject matter experts (SME).

The Board has regulated the operators of Virginia wastewater facilities for many years and, as a result, has extensive knowledge of these professions. The new Board members from the onsite sewage system industry brought considerable specific expertise, especially in the area of soils matrix (which is the primary difference between wastewater facilities and onsite sewage systems). Drawing on this expertise, the Board proposed regulation amendments that create specific experience, education, and examination requirements as the entry standard for installer and operator licenses. The standards for onsite sewage system installers' and operators' licenses are specific to conventional or alternative onsite sewage systems, for the same reasons as discussed above for onsite soil evaluators.

The OSSP Committee recommended 10 hours of continuing professional education (CPE) per two-year licensing period for conventional evaluators, installers, and operators and 20 hours for alternative evaluators, installers, and operators. VDH currently requires 20 hours of CPE every two years for AOSEs, and many of the industry organizations have similar CPE requirements for continuing membership. A CPE standard that requires completion of less than one hour per month is a minimum standard, especially in light of the changes in regulations and technology that have occurred (and are likely to occur in the future).

2) The only compliance or reporting requirement is the continuing professional education (CPE) requirement for license renewal. A requirement for licensees to report compliance through documentation submitted at the time of renewal was replaced with a provision making the act of applying for renewal an affirmative statement of CPE compliance, thus making the renewal process less burdensome for the regulants and staff. The Board will periodically select, at random, a number of regulants and require submittal of CPE documentation to determine compliance. Those unable to provide documentation will be subject to the disciplinary provisions of the Board's regulations.

3) Same as #2 above.

4) All of the performance standards are focused on the protection of the public and the environment through the regulation of individuals rather than the regulation of their employers or their businesses.

5) The Board has no statutory authority to regulate businesses but has not lost sight of the fact that regulations affecting individuals do impact on businesses. The focus of the Board has remained on identifying the least intrusive provisions that will protect the public and the environment and also minimize adverse impact on businesses.

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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No family impact has been identified.